



**CONCORDANCE**  
**OF**  
**THE RAILWAY ACT**














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for Canada, Board of

Government  
Publications

[General publication]

[G-6] CONCORDANCE

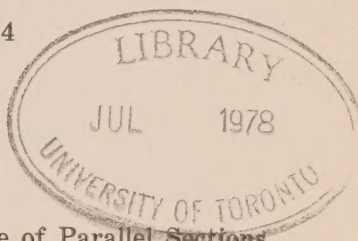
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OF

# THE RAILWAY ACT

R.S.C. 1952, c. 234



CONTAINING

a History of the Railway Act, a Table of Parallel Sections

and

an expanded Analytical Index to the Railway Act

and also

The Transport Act

The Maritime Freight Rates Act

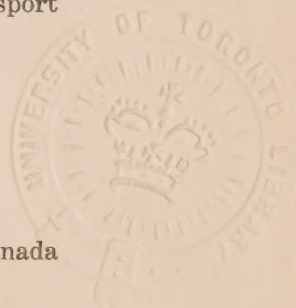
The Pipe Lines Act

Rules of Practice of the Board of Transport  
Commissioners for Canada

compiled by

The Legal Staff  
of the

Board of Transport Commissioners for Canada



CANADA LAW BOOK COMPANY, LIMITED

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## TABLE OF CONTENTS

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1. History and Disposal of the Railway Act, p. 3
2. Table of Parallel Sections of the Railway Act, p. 10
3. The Railway Act
4. The Transport Act
5. The Maritime Freight Rates Act
6. The Pipe Lines Act
7. Rules of Practice of the Transport Board, p. i
8. Forms under the Rules, pp. x, xi, xii
9. Index to the Railway Act, pp. xiii et seq.





## HISTORY AND DISPOSAL OF THE RAILWAY ACT.

- 1906, c. 37 —Repealed by 1919, c. 68, s. 461, except s. 247 in so far as applicable to any person or company having legislative authority from the Parliament of Canada to acquire, construct, operate or maintain works, machinery, plant, lines, poles, tunnels, conduits, or other means for receiving, generating, storing, transmitting, distributing or supplying electrical or other power or energy, but not including a railway company or a telegraph or telephone company.
- 1907, c. 37 —Amends s. 196.
- c. 38 —New enactments (s. 7 repealed by 1908, c. 60); amends s. 136; repeals and substitutes s-s. 5 of s. 299.
- 1908, c. 61 —New enactments re Telegraphs and Telephones and jurisdiction of Board of Railway Commissioners (amended 1910, c. 57); repeals ss. 355 to 360; adds s. 26A (re-enacted 1909, c. 32); repeals and substitutes para. 30 of s. 2; amends s. 284; repeals and substitutes s. 314; amends s. 237 and s. 241 (repealed and substituted 1909, c. 32).
- c. 62 —Repeals and substitutes s-s. (1) of s. 10, s-s. (5) of s. 10, s. 12, s. 13, s. 15; adds s. 19A; amends s. 18; repeals and substitutes s. 29, s-s. (1) of s. 35 (amended 1913, c. 44); adds s. 41A (amended 1911, c. 22); repeals and substitutes s. 62 (repealed and substituted 1909, c. 32).
- 1909, c. 31 —Adds s. 360A (repealed and substituted 1911, c. 22); repeals and substitutes ss. 370 and 371; repeals Schedules 1 & 2.
- c. 32 —Repeals and re-enacts s. 26A; amends s. 136; amends s-s. (2) of s. 192; repeals and re-enacts s. 237 and s. 238; adds s. 238A (amended 1910, c. 50); adds s. 239A (repealed 1914, c. 50); repeals and substitutes s. 241; amends s-s. (1) of s. 298; adds s-s. (4) to s. 298 (repealed 1911, c. 22); adds s. 5A; repeals and substitutes s. 62; adds s-ss. (3), (4) and (5) to s. 275.

- 1910, c. 50 —Repeals and substitutes s-s. (3) of s. 56; adds s. 59A; adds s-s. (2) to s. 121; adds s-s. (5) to s. 246; repealed 1911, c. 22; amends s. 254, s. 261 (7); adds s-s. (2) to s. 276; repeals and substitutes s-s. (4) of s. 298; amends s. 295; repeals and re-enacts s. 298 (amended 1911, c. 22); repeals and substitutes para. (c) of s. 241; amends s-s. (2) of s. 427; repeals and substitutes s-s. (8) of s. 4 of c. 61 of 1908 statutes; amends s. 238A and s. 275.
- c. 57 —Amends paras. (d) and (e) of s. 1 of 1908, c. 61; amends s. 4, and para. (d) of s. 5(2) of 1908, c. 61; enacts s. 5 re time for filing and approval of tariffs.
- 1911, c. 22 —Repeals & subs. sub-para. (c) of s. 2 (4); amends para. (f) of s. 30(1); amends s. 41A, s. 159, s. 228, s. 235, s. 246, ss. 250 and 254; repeals & subs. s. 298; amends s-s. (3) of s. 328; repeals & subs. s. 360A; enacts s. 369A; repeals & subs. s. 372.
- 1913, c. 44 —Amends s-s. (1) of s. 35 and s-s. (2) of s. 168.
- 1914, c. 50 —Repeals & subs. s-s. (1) of s. 239A.
- 1916, c. 2 —Adds s. 317A.
- 1917, c. 37 —Amends s. 259, para. (e) of s. 2(34), s. 50, s-s. (1) of s. 246, s. 269; repeals & subs. s-s. (2) of s. 274, s-s. (1) of s. 276; amends s-s. (1) of s. 292; repeals & subs. s. 300; amends s-s. (1) of s. 306; repeals & subs. s. 308, s-s. (3) of s. 310, para. (d) of s. 393; amends s. 394.
- 1919, c. 68 —Consolidated, except s-s. (2) of s. 262, repealed 1926 c. 14, s. 1.  
Proviso of para. (b) of s-s. (1) of s. 274 spent.  
Proviso of ss. 325 and 461 spent.
- 1920, c. 65 —Amends s. 6 (not included in 1927 Revision).
- c. 66 —Adds s. 71A (not included in 1927 Revision).
- 1922, c. 41 —Enacts s-s. (5) of s. 325 to remain in force till July 6, 1923 and possible further period of one year.

- 1925, c. 52 —Repeals c. 41 of 1922 and adds s-s. (5) to s. 325.
- 1926, c. 14 —Repeals & subs. s-s. (2) of s. 262.
- 1927, c. 170 —Consolidated.
- 1928, c. 43 —Repeals & subs. s. 262 and s-s. (1) of s. 295.
- 1929, c. 54 —Adds s. 41A; amends s. 262 by adding s-s. (6); repeals & subs. s-s. (1) of s. 336; repeals & subs. s-s. (1) of s. 341; repeals & subs. para. (k) of s. 384(1); repeals & subs. s-s. (2) and s-s. (5) of s. 384.
- 1930, c. 36 —Adds s. 82A; repeals & subs. s-s. (1) of s. 255; repeals & subs. s. 301; repeals & subs. s-s. (2) of s. 356.
- 1932-33, c. 47 —Adds s. 165A.
- 1938, c. 12 —Adds s-s. (5A) to s. 375.
- c. 40 —Repeals & subs. s-s. (1) of s. 203.
- 1946, c. 30 —Repeals & subs. s-s. (1) of s. 310; repeals & subs. para. (g) of s-s. (1) of s. 421.
- 1947, c. 70 —Adds para. (35a) to s. 2; repeals & subs. s-s. (1) of s. 26; repeals and subs. s-s. (6) of s. 262; repeals and subs. s-s. (2) of s. 266; repeals and subs. s-s. (2) of s. 308 and adds s-s. (3) to s. 308; repeals para. (c) of s. 309 and adds s-s. (2) to s. 309; repeals & subs. s-s. (3) of s. 419; repeals & subs. para. (e) of s-s. (1) of s. 421.
- 1947-48, c. 27 —Repeals and subs. s-s. (6) of s. 262; repeals and subs. s-s. 2 of s. 373; repeals s-s. (6) and (7) of s. 373 and subs. therefor s-s. (6), (6a), (6b) and (7).
- c. 66 —Repeals s-s. 2 of s. 10 and subs. therefor s-s. (2), (2a) and (2b); repeals and subs. s-s. (1) of s. 26.
- 1950, c. 20 —Repeals & subs. s-s. (2) and (6) of s. 262.
- 1951, c. 22 —Repeals and subs. s-s. (5) of s. 9; repeals s-s. (2), (2a) and (2b) of s. 10 and subs. therefor s-s. (2), (2a), (2b) and (2c); repeals and subs. s-s. (1) of s. 26; repeals s-s. (2), (3) and (4) of s. 52 and subs. therefor

s-s. (2) and (3); repeals and subs. s-s. (6) of s. 323; repeals and subs. s-s. (3) of s. 325; repeals s. 328 to s. 332 and subs. therefor s. 328 to s. 332B; repeals and subs. s-s. (2) of s. 333; repeals and subs. s-s. (1) of s. 334; amends s. 336 by adding thereto s-s. (4); repeals s-s. (1), (3) and (4) of s. 342; repeals and subs. s-s. (4) of s. 375; repeals and subs. s-s. (1) of s. 379; repeals and subs. s-s. (1) of s. 380; adds s. 380A and 380B; repeals and subs. portion of s. 383 that precedes para. (a); repeals and subs. paras. (a) and (b) of s-s. (1) of s. 437; adds a new s.

1952, c. 234 —Consolidated.



THE CONCORDANCE  
OF THE  
RAILWAY ACT

1906 - 1952

## TABLE OF PARALLEL SECTIONS

OF

## THE RAILWAY ACT

\*Indicates amended in 1919 Revision.

1906 c. 37		Amended	1919 c. 68	Amended	1927 c. 170	Amended	1952 c. 234
1			1		1		1
2		1908, c. 61, ss. 1 & 9 1911, c. 22, s. 1 1917, c. 37, s. 2	2		2	add. par. (35a), 1947, c. 70, s. 1	2
3			3		3		3
4*			4		4		4
5			5		5		5
			6	s-s. (2) added 1920, c. 65, s. 1	6		6
6			7		7		7
8			8		8		8
10(1)-(4)		1908, c. 62, s. 1*	9		9	s-s. (5) rep. & sub. 1951, c. 22, s. 1, s-s. (1)	9
10(5)		1908, c. 62, s. 2	10		10	s-s. (2) rep. & sub. 1947-48, c. 66, s. 1 s-s. (2), (2a) & (2b) rep. & s-s. (2), (2a), (2b) & (2c) sub. 1951, c. 22, s. 1, s-s. (2)	10

PARALLEL SECTIONS

10(6), 12	1908, c. 62, ss. 3, 4	11	11
13	1908, c. 62, s. 4	12	12
14		13	13
15		14	14
16		15	15
17		16	16
18	1908, c. 62, s. 7	17	17
19	1908, c. 62, s. 6	18	18
20		19	19
21		20	20
22		21	21
23*		22	22
24		23	23
25		24	24
26	1908, c. 62, s. 9	25	25
35	1913, c. 44, s. 1*	26	26
			s-s. (1) rep. & sub. 1947, c. 70 s. 2 s-s. (1) rep. & sub. 1947-48, c. 66, s. 2 s-s (1) rep. & sub. 1951, c. 22 s. 1, s-s. (3)
36		27	27
37		28	28
38		29	29
39		30	30
62		31	31
11		32	32
26		33	33
30 (part)*		34	34
26A	1909, c. 32, s. 1	35	35
28(1)		36	36
28(2)*		37	37
57*		38	38

1906 c. 27	Amended	1919 c. 68	Amended	1927 c. 170	Amended	1952 c. 234
59*		39		39		39
59A	1910, c. 50, s. 2	40		40		40
50	1917, c. 37, s. 3	41		41		41
				41A	added 1929, c. 54, s. 1	42
55*		42		42		43
54		43		43		44
47		44		44		45
48*		45		45		46
49		46		46		47
53		47		47		48
46*		48		48		49
31		49		49		50
29	1908, c. 62, s. 8	50		50		51
56	1910, c. 50, s. 1*	51		51	s-s. (2), (3) & (4) rep. & s-s. (2) & (3) sub. 1951, c. 22, s. 4	52
		52		52		
51						53
40*		53		53		54
41		54		54		55
		55		55		56
42						
43		56		56		57
44		57		57		58
45*		58		58		59
52	1908, c. 62, s. 10	59		59		60
58	1911, c. 22, s. 3*	60		60		61
63		61		61		62
64		62		62		63
		63		63		64



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Added 1930, c. 36, s. 1

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added 1920, c. 66, s. 1

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See R.S.Q. 1909,  
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1906 c. 27	Amended	1919 c. 68	Amended	1927 c. 170	Amended	1952 c. 234
98		93		93		95
99		94		94		96
100		95		95		97
101		96		96		98
125*		97		97		99
126		98		98		100
127		99		99		101
128		100		100		102
129		101		101		103
130		102		102		104
102		103		103		105
103		104		104		106
104		105		105		107
105		106		106		108
106		107		107		109
107		108		108		110
108		109		109		111
109		110		110		112
110		111		111		113
111		112		112		114
112*		113		113		115
113*		114		114		116
114		115		115		117
115		116		116		118
116*		117		117		119
117		118		118		120
118		119		119		121
119		120		120		122
120		121		121		123

76, 121	1910, c. 50, s. 3*	122	124
122		123	125
123*		124	126
70		125	127
124*		126	128
131		127	129
132		128	130
133		129	131
134		130	132
135		131	133
136	1907, c. 38, s. 8*	132	134
136(7)		133	135
137		134	136
138*		135	137
139		136	138
140(1)		137	139
140(2)	1907, c. 38, s. 2	138	140
73		139	141
141, 142*		140	142
143		141	143
144		142	144
145		143	145
146*		144	146
147, 148*		145	147
149	1907, c. 38, s. 4*	146	148
152		147	149
153		148	150
299	1907, c. 38, s. 9*	149	151
361*		150	152
362		151	153
363		152	154
		153	155

1906 c. 27	Amended	1919 c. 68	Amended	1927 c. 170	Amended	1952 c. 234
364		154		154		156
365		155		155		157
366		156		156		158
367*		157		157		159
368		158		158		160
369		159		159		161
369A	1911, c. 22, s. 13*	160		160		162
150*		161		161		163
		162	new	162		164
154		163		163		165
155		164		164		166
156		165		165		167
				165A	Added 1932-33, c. 47, s. 1	168
168(1)*		166		166		169
157*		167		167		170
158*		168		168		171
165		169		169		172
159(1)-(4)*		170		170		173
159(5)		171		171		174
160	1911, c. 22, s. 4*	172		172		175
161		173		173		176
162*		174		174		177
164		175		175		178
163, 74		176		176		179
166		177		177		180
167		178		178		181
168(2)	1913, c. 44, s. 2	179		179		182
221*		180		180		183





1906 c. 37	Amended	1919 c. 68	Amended	1927 c. 170	Amended	1952 c. 234
187		209		209		212
188*		210		210		213
189		211		211		214
190		212		212		215
191(1), 192(1)*		213		213		216
191(2)		214		214		217
193*		215		215		218
194*		216		216		219
195*		217		217		220
207		218		218		221
196	1907, c. 37, s. 1*	219		219		222
197*		220		220		223
198, 192(2)	1909, c. 32, s. 3*	221		221		224
		222	new (see R.S.C. 1906, c. 143, s. 30)	222		225
			new			
200*		223		223		226
201*		224		224		227
202*		225		225		228
203*		226		226		229
204*		227		227		230
206*		228		228		231
205		229		229		232
208*		230		230		233
209*		231		231		234
210*		232		232		235
211		233		233		236
212		234		234		237
213*		235		235		238
		236		236		239

PARALLEL SECTIONS

19

214	237	240
215	238	241
216*	239	242
217	240	243
218*	241	244
219	242	245
220*	243	246
229	244	247
230	245	248
231	246	249
232	247	250
233	248	251
234	249	252
256*	250	253
	251	254
227	252	255(1)
228	253	255(2)
229	254	255(3)
235	255(1)	256
		257
		rep. & sub. 1930, c. 36, s. 2
237	258	258
238(1), (2)	259	259
	260	260
238(3)	258	261
238A	259	262
	260	263
239	261	264
239A	262	265
	1926, c. 14, s. 1	rep. & sub. 1928, c. 43, s. 1

1906 c. 27	Amended	1919 c. 68	Amended	1927 c. 170	Amended	1952 c. 234
	1919, c. 30, s. 1					265
240*		263		263		266
241	1909, c. 32, s. 8 (1)	264		264		267
236		265		265		268
242*		266		266		269
						270
243		267		267		271
250(1)*		268		268		272
250(2), (3)	1911, c. 22, s. 8*	269		269		273
251		270		270		274
249*		271		271		275
252*		272		272		276
253*		273		273		277
254	1910, c. 50, s. 5 1911, c. 22, s. 9*	274		274		278
						279
255	1910, c. 50, s. 6	275		275		280
261		276		276		281
		277	new	277		282
294(1), (2)*		278		278		283
296		279		279		
297		280		280		



30(f) part	1911, c. 22, ss. 2, 10(4) *	281	281	284
288*		282	282	285
262		283	283	286
263		284	284	287
292	1917, c. 37, s. 8	285	285	288
293		286	286	289
30 part	1909, c. 32, s. 13 part	287	287	290
269	1917, c. 37, s. 5*			
275 part				
268*		288	288	291
259(3)	1917, c. 37, s. 1	289	289	292
307*		290	290	293
308	1917, c. 37, s. 11	291	291	294
309		292	292	295
310	1917, c. 37, s. 12	293	293	296
311		294	294	297
312		295	295	298
			par. (1) rep. & sub. 1928, c. 43, s. 2	
313		296	296	299
76		297	297	300
264		298	298	301
265*		299	299	302
266		300	300	303
367		301	301	304
			rep. & sub. 1930, c. 36, s. 3	
270		302	302	305
271*		303	303	306
272		304	304	307
273		305	305	308
277		306	306	309
278		307	307	310

1906 c. 27	Amended	1919 c. 68	Amended	1927 c. 170	Amended	1952 c. 234
274	1917, c. 37, s. 6	308		308	s-s. (2) rep. & s-s. (2) & (3) sub. 1947, c. 70, s. 5	311
275 part	1909, c. 32, s. 13 part*	309		309	Par. (c) rep. s-s. (2) added 1947, c. 70, s. 6	312
276(2)	1910, c. 50, s. 15 1910, c. 50, s. 7	310		310	s-s. (1) rep. & sub. 1946, c. 30, s. 1	313
279		311		311		314
284	1908, c. 61, s. 10*	312		312		315
285*		313		313		316
315*		314		314		317
316		315		315		318
317		316		316		319
318		317		317		320
317A	1916, c. 2, s. 1	318		318		321
77		319		319		322
319		320		320		323
320		321		321		324
321*		322		322		325
314	1908, c. 61, s. 11*	323		323	s-s. (6) rep. & sub. 1951, c. 22, s. 5	326
322		324		324		327
323		325	1925, c. 52, ss. 2 & 3	325	s-s. (3) rep. & sub. 1951, c. 22, s. 6	328
324*		326		326		329
325		327		327		330
326*		328		328	Rep. & subs. by s. 328, 329, 330, 331, 332, 332A, 332B, 1951, c.	331
327*		329		329		332
		330		330		333

328	1911, c. 22, s. 11*	331	331 }	22, s. 7	334
329*		332	332 }	Added 1951	335
			332A		336
330*		333	332B	s-s. (2) rep. & sub.	337
				1951, c. 22, s. 8	338
331*		334		s-s. (1) rep. & sub.	339
				1951, c. 22, s. 9	
332*		335		par. (1) rep. & sub.	340
333*		336		1929, c. 54, s. 3	341
				s-s. (4) added 1951,	
				c. 22, s. 10	342
334		337			343
335		338			344
336		339			345
337		340		par. (1) rep. & sub.	346
338*		341		1929, c. 54, s. 4	
				s-s. (1), (3) & (4)	347
339*		342		rep. 1951, c. 22, s. 11	
					348
78		343			349
342		344			350
341	1910, c. 50, s. 11*	345			351
343*		346			352
		347			353
					354
340	1909, c. 32, s. 14*	348			355
286*		349			356
287*		350			357
289*		351			358
283		352			
280		353			

new

1906 c. 27	Amended	1919 c. 68	Amended	1927 c. 170	Amended	1952 c. 234
281*		354		354		359
344		355		355		360
345		356		356	s-s. (2) rep. & sub. 1930, c. 36, s. 4	361
346, 347		357		357		362
7(1)*		358		358		363
7(2)*		359		359		364
348		360		360		365
349		361		361		366
350*		362		362		367
351*		363		363		368
352*		364		364		369
353*		365		365		370
354		366		366		371
244*		367		367		372
		368	new	368		373
		369	new	369		374
		370	new	370		375
245*	1911, c. 22, s. 7	371		371	s-s. (2) rep. & sub. &	376
246	1917, c. 37, s. 4*	372		372	s-s. (6) & (7) rep. &	377
247 part}	*	373		373	s-s. (6), (6a), (6b) &	378
248 part)*	*				(7) subs. 1947-48, c. 27, s. 2	
360A	1911, c. 22, s. 12	374		374	s-s. (5A) added 1938,	379
	1908, c. 61, ss. 1-5	375		375	c. 12, s. 1	380
	1910, c. 50, s. 13*				s-s. (4) rep. & sub.	



1906 c. 37	Amended	1919 c. 68	Amended	1927 c. 170	Amended	1952 c. 234
424		395		395		402
378		396		396		403
377		397		397		404
		398	new	398		405
		399	new	399		406
		400		400		407
379		401		401		408
382*		402		402		409
396		403		403		410
380*		404		404		411
381		405		405		412
384		406		406		413
407*		407		407		414
417		408		408		415
408*		409		409		416
409		410		410		417
383		411		411		418
385		412(1)		412		419
412		412(2)	new			
416		413		413		420
386(1)		414		414		421
395*		415		415		422
387		416		416		423
389		417		417		424
390		418		418		425
391*		419		419	s-s. (3) rep. & sub. 1947, c. 70, s. 7	426
392		420		420		427





## PARALLEL SECTIONS

1906 c. 27	Amended	1919 c. 68	Amended	1927 c. 170	Amended	1952 c. 234
431 *		448		448		455
300		449		449		456
301		450		450		457
302		451		451		458
303 *		452		452		459
304		453		453		460
305		454		454		461
75		455		455		462
9 *		456		456		463
27		457		457		464
32		458		458		465
33		459		459		466
34		460		460		467
		461	spent		New s. added. 1951, c. 22, s. 18	468



## CHAPTER 234.

### An Act respecting Railways.

#### SHORT TITLE.

**1.** This Act may be cited as the *Railway Act*. R.S., Short title.  
c. 170, s. 1.

#### INTERPRETATION.

**2.** In this Act, and in any Special Act as hereinafter Definitions.  
defined, in so far as this Act applies,

- (1) "Board" means the Board of Transport Commission- "Board."  
ers for Canada;
- (2) "by-law," when referring to an act of the company, "By-law."  
includes a resolution;
- (3) "charge", when used as a verb with respect to tolls, "Charge."  
includes to quote, demand, levy, take or receive;
- (4) "company" includes a person, and where not other- "Company"  
wise stated or implied means "railway company," un- and  
less immediately preceded by "any", "every" or "Railway  
"all", in which case it means every kind of company Company."  
which the context will permit of; and "railway com-  
pany" or "company" when it means or includes "rail-  
way company,"
- (a) includes every such company and any person hav-  
ing authority to construct or operate a railway; and
- (b) in the sections of this Act that require companies to  
furnish statistics and returns to the Board, or provide  
penalties for default in so doing, includes further any  
company constructing or operating a line of railway  
in Canada, even though such company is not

otherwise within the legislative authority of the Parliament of Canada, and includes also any individual not incorporated who is the owner or lessee of a railway in Canada, or party to an agreement for the working of such a railway;

- "Costs." (5) "costs" includes fees, counsel fees and expenses;
- "County." (6) "county" includes any county, union of counties, riding, district, or division corresponding to a county, and any separate municipal division of a county;
- "Court." (7) "court" means a superior court of the province or district, and, when used with respect to any proceedings for  
 (a) the ascertainment or payment, either to the person entitled, or into court, of compensation for lands taken, or for the exercise of powers conferred by this Act, or  
 (b) the delivery of possession of lands, or the putting down of resistance to the exercise of powers, after compensation paid or tendered,  
 includes the county court of the county where the lands lie; and "county court" and "superior court" are to be interpreted according to the *Interpretation Act* and amendments thereto;
- "County court."  
"Superior court." (8) "Exchequer Court" means the Exchequer Court of Canada;
- "Express toll." (9) "express toll" means any toll, rate or charge to be charged by any company, or any person or corporation other than the company, to any persons, for hire or otherwise, for or in connection with the collecting, receiving, caring for or handling of any goods for the purpose of sending, carrying or transporting them by express, or for or in connection with the sending, carrying, transporting or delivery by express of any goods, or for any service incidental thereto, or for or in connection with any or either of these objects, where the whole or any portion of the carriage or transportation of such goods is by rail upon the railway of the company;
- "Goods." (10) "goods" includes personal property of every description that may be conveyed upon the railway, or upon steam vessels or other vessels connected with the railway;
- "Highway." (11) "highway" includes any public road, street, lane or other public way or communication;

- (12) "inspecting engineer" means an engineer who is directed by the Minister, or by the Board, to examine any railway or works, and includes two or more engineers, when two or more are so directed; "Inspecting Engineer."
- (13) "judge" means a judge of a superior or county court hereinbefore mentioned, as the case may be; "Judge."
- (14) "justice" means a justice of the peace acting for the province, district, county, riding, division, city or place where the matter requiring the cognizance of a justice arises; and, when any matter is authorized or required to be done by two justices, the expression "two justices" means two justices assembled and acting together; "Justice."
- (15) "lands" means the lands, the acquiring, taking or using of which is authorized by this or the Special Act, and includes real property, messuages, lands, tenements and hereditaments of any tenure, and any easement, servitude, right, privilege or interest in, to, upon, under, over or in respect of the same; "Lands."
- (16) "lease" includes an agreement for a lease; "Lease."
- (17) "Minister" means the Minister of Transport; "Minister."
- (18) "owner", when, under the provisions of this Act or the Special Act, any notice is required to be given to the owner of any lands, or when any act is authorized or required to be done with the consent of the owner, means any person who, under the provisions of this Act, or the Special Act, or any Act incorporated therewith, is enabled to sell and convey the lands to the company, and includes also a mortgagee of the lands; "Owner."
- (19) "plan" means a ground plan of the lands and property taken or intended to be taken; "Plan."
- (20) "provincial legislature" or "legislature of any province" means any legislative body other than the Parliament of Canada; "Provincial Legislature."
- (21) "railway" means any railway that the company has authority to construct or operate, and includes all branches, extensions, sidings, stations, depots, wharves, rolling stock, equipment, stores, property real or personal and works connected therewith, and also any railway bridge, tunnel or other structure which the company is authorized to construct; and, except where the context is inapplicable, includes street railway and tramway; "Railway."



- "*Railway Act, 1888.*" (22) "*Railway Act, 1888,*" means the Act of the Parliament of Canada passed in the year 1888, chapter 29, intituled *An Act respecting Railways*, and the several Acts in amendment thereof;
- "Registrar of deeds." (23) "registrar of deeds" or "registrar" includes the registrar of land titles, or other officer with whom the title to the land is registered;
- "Registry of deeds." (24) "registry of deeds," or "office of the registrar of deeds," or other words descriptive of the office of the registrar of deeds, include the land titles office, or other office in which the title to the land is registered;
- "Rolling stock." (25) "rolling stock" includes any locomotive, engine, motor car, tender, snow-plough, flanger, and every description of car or of railway equipment designed for movement on its wheels, over or upon the rails or tracks of the company;
- "Secretary." (26) "Secretary" means the Secretary of the Board;
- "Sheriff." (27) "sheriff" means the sheriff of the district, county, riding, division, city or place within which are situated any lands in relation to which any matter is required to be done by a sheriff, and includes an under sheriff or other lawful deputy of the sheriff;
- "Special Act." (28) "Special Act", when used with reference to a railway, means any Act under which the company has authority to construct or operate a railway, or that is enacted with special reference to such railway, whether heretofore or hereafter passed, and includes
- (a) all such Acts,
- (b) with respect to the Grand Trunk Pacific Railway Company, the *National Transcontinental Railway Act*, and any amendments thereto, and any scheduled agreements therein referred to, and
- (c) any letters patent, constituting a company's authority to construct or operate a railway, granted under any Act, and the Act under which such letters patent were granted or confirmed;
- "Telegraph." (29) "telegraph" includes wireless telegraph;
- "Telegraph toll." (30) "telegraph toll," or "toll," when used with reference to telegraph, means any toll, rate or charge to be charged by any company to the public, or to any person, for the transmission of messages by telegraph;
- "Telephone toll." (31) "telephone toll," or "toll," when used with reference to telephone, means any toll, rate or charge to be charged by any company to the public, or to any person, for use or lease of a telephone system or line,



or any part thereof, or for the transmission of a message by telephone, or for installation and use or lease of telephone instruments, lines or apparatus, or for any service incidental to a telephone business;

- (32) "toll," or "rate," when used with reference to a railway, means any toll, rate, charge or allowance charged or made either by the company, or upon or in respect of a railway owned or operated by the company, or by any person on behalf or under authority or consent of the company, in connection with the carriage and transportation of passengers, or the carriage, shipment, transportation, care, handling or delivery of goods, or for any service incidental to the business of a carrier; and includes any toll, rate, charge or allowance so charged or made in connection with rolling stock, or the use thereof, or any instrumentality or facility of carriage, shipment or transportation, irrespective of ownership or of any contract, expressed or implied, with respect to the use thereof; and includes also any toll, rate, charge or allowance so charged or made for furnishing passengers with beds or berths upon sleeping cars, or for the collection, receipt, loading, unloading, stopping over, elevation, ventilation, refrigerating, icing, heating, switching, carriage, cartage, storage, care, handling or delivery of, or in respect of, goods transported, or in transit, or to be transported; and includes also any toll, rate, charge or allowance so charged or made for the warehousing of goods, wharfage or demurrage, or the like, or so charged or made in connection with any one or more of the above-mentioned objects, separately or conjointly;
- (33) "traffic" means the traffic of passengers, goods and rolling stock; "Traffic."
- (34) "train" includes any engine, locomotive or other rolling stock; "Train."
- (35) "the undertaking" means the railway and works, of whatsoever description that the company has authority to construct or operate; "Undertaking."
- (36) "whistle" includes a horn of any type approved by the Board; "Whistle."
- (37) "working expenditure" includes "Working expenditure."
- (a) all expenses of maintenance of the railway;
- (b) all such tolls, rents or annual sums as are paid in respect of the hire of rolling stock let to the company; or in respect of property leased to or held by the company, apart from the rent of any leased line;

- (c) all rent charges or interest on the purchase money of lands belonging to the company, purchased but not paid for, or not fully paid for;
  - (d) all expenses of or incidental to the working of the railway and the traffic thereon, including all necessary repairs and supplies to rolling stock while on the lines of another company;
  - (e) all rates, taxes, insurance and compensation for accidents or losses, including any such compensation payable under the provisions of any Act of the Parliament of Canada or of any provincial legislature providing for compensation to workmen for injuries or in respect of an industrial disease;
  - (f) all salaries and wages of persons employed in and about the working of the railway and traffic;
  - (g) all office and management expenses, including directors' fees, and agency, legal and other like expenses;
  - (h) all costs and expenses of and incidental to the compliance by the company with any order of the Board under this Act; and
  - (i) generally, all such charges, if any, not hereinbefore otherwise specified, as, in all cases of English railway companies, are usually carried to the debit of revenue as distinguished from capital account;
- (38) when any matter arises in respect of any lands that are not situated wholly in any one district, county, riding, division, city or place, and are the property of one and the same person, "clerk of the peace," "justice," and "sheriff," respectively, mean any clerk of the peace, justice or sheriff for any district, county, riding, division, city or place within which any portion of such lands is situated. R.S., c. 170, s. 2; 1936, c. 34, s. 3; 1938, c. 53, s. 3; 1947, c. 70, s. 1.

*Construing with Special Acts.*

General  
rules as to  
construing.

**3.** Except as in this Act otherwise provided,

- (a) this Act shall be construed as incorporate with the Special Act, and
- (b) where the provisions of this Act and of any Special Act passed by the Parliament of Canada relate to the same subject-matter the provisions of the Special Act shall, in so far as is necessary to give effect to such Special Act, be taken to over-ride the provisions of this Act. R.S., c. 170, s. 3.

4. If in any Special Act passed before the 7th day of July, 1919, it is enacted that any provision of any general railway Act in force at the time of the passing of such Special Act, is excepted from incorporation therewith, or if the application of any such provision is, by such Special Act, extended, limited or qualified, the provisions of this Act relating to the same subject-matter, shall, unless otherwise provided in this Act, be taken to be excepted, extended, limited, or qualified, in like manner. R.S., c. 170, s. 4.

Special Act referring to corresponding provisions.

#### APPLICATION OF ACT.

5. Subject as herein provided, this Act applies to all persons, railway companies and railways, within the legislative authority of the Parliament of Canada, whether heretofore or hereafter, and howsoever, incorporated or authorized, except Government railways, to which however it applies to such extent as is specified in any Act referring or relating thereto. R.S., c. 170, s. 5.

To what persons, companies and railways applicable.

6. (1) The provisions of this Act, without limiting the effect of section 5, extend and apply to

Application to—

(a) every railway company incorporated elsewhere than in Canada and owning, controlling, operating or running trains or rolling stock upon or over any line or lines of railway in Canada either owned, controlled, leased or operated by such company or companies, whether in either case such ownership, control, or operation is acquired by purchase, lease, agreement or by any other means whatsoever;

Foreign companies.

(b) every railway company operating or running trains from any point in the United States to any point in Canada; and

Companies running trains into Canada.

(c) every railway or portion thereof, whether constructed under the authority of the Parliament of Canada or not, now or hereafter owned, controlled, leased, or operated by a company wholly or partly within the legislative authority of the Parliament of Canada, or by a company operating a railway wholly or partly within the legislative authority of the Parliament of Canada, whether such ownership, control, or first mentioned operation is acquired or exercised by purchase, lease, agreement or other means whatsoever, and whether acquired or exercised under authority of the Parliament of Canada, or of the legislature of any province, or otherwise howsoever; and every railway or portion thereof, now or hereafter so owned, controlled,

Railways deemed to be works for general advantage of Canada.

trolled, leased or operated shall be deemed and is hereby declared to be a work for the general advantage of Canada.

Railways excepted from those deemed to be works for the general advantage of Canada.

(2) The provisions of paragraph (c) of subsection (1) shall be deemed not to include or apply to any street railway, electric suburban railway or tramway constructed under the authority of a provincial legislature, and which has not been declared to be a work for the general advantage of Canada otherwise than by the provisions of the said paragraph. R.S., c. 170, s. 6.

Railways declared to be for general advantage of Canada.

7. Where any railway, the construction or operation of which is authorized by a Special Act passed by the legislature of any province, is declared, by any Act of the Parliament of Canada, to be a work for the general advantage of Canada, this Act applies to such railway, and to the company constructing or operating the same, to the exclusion of such of the provisions of the said Special Act as are inconsistent with this Act, and in lieu of any general railway Act of the province. R.S., c. 170, s. 7.

Special Act.

Provincial railways connecting with or crossing Dominion Railways, subject to this Act.

8. Every railway, the construction or operation of which is authorized by Special Act of the legislature of any province and which connects with or crosses or may hereafter connect with or cross any railway within the legislative authority of the Parliament of Canada, is, although not declared by Parliament to be a work for the general advantage of Canada, subject to the provisions of this Act relating to

- (a) the connection or crossing of one railway with or by another, so far as concerns the aforesaid connection or crossing,
- (b) criminal matters, including offences and penalties, and
- (c) navigable waters. R.S., c. 170, s. 8.

BOARD OF COMMISSIONERS.

*Constitution.*

Board, how constituted.

9. (1) There shall be a commission, known as the Board of Transport Commissioners for Canada, consisting of six members appointed by the Governor in Council.

Court of record.

(2) Such commission shall be a court of record, and have an official seal which shall be judicially noticed.

Tenure.

(3) Each commissioner holds office during good behaviour for a period of ten years from the date of his appointment, but may be removed at any time by the Governor in Council upon address of the Senate and House of Commons.



(4) A commissioner ceases to hold office upon reaching the age of seventy-five years.

(5) A commissioner on the expiration of his first or subsequent term of office is, if not disqualified by age, eligible for reappointment for a period not exceeding ten years. R.S., c. 170, s. 9; 1938, c. 53, s. 3; 1951 (2nd Sess.), c. 22, s. 1. Reappointment.

**10.** (1) One of such commissioners shall be appointed by the Governor in Council, Chief Commissioner, and another of them Assistant Chief Commissioner of the Board. Chief Commissioner and Assistant Chief Commissioner.

(2) Any person may be appointed Chief Commissioner who is or has been a judge of a superior court of Canada or of any province of Canada, or who is a barrister or advocate of at least ten years' standing at the bar of any such province.

(3) Sections 23, 24, 27, 29 and 30 of the *Judges Act* apply in respect of the Chief Commissioner as though his service in the office of Chief Commissioner were service in the office of a judge of the Exchequer Court, and notwithstanding anything in the *Civil Service Superannuation Act* the Chief Commissioner is not a civil servant for the purposes of that Act. Annuity for Chief Commissioner.

(4) Where the term of office of a Chief Commissioner expires before he has attained the age of seventy-five years and he has not, prior to the expiration of such term, been reappointed as Chief Commissioner for a further term, he becomes, at the time such term expires and without any appointment pursuant to the provisions of the *Exchequer Court Act*, a puisne judge of the Exchequer Court in addition to the number of judges of the Exchequer Court provided for in the *Exchequer Court Act* and the *Judges Act* and with the same jurisdiction, tenure of office and salary as other puisne judges of the Exchequer Court; and for the purposes of sections 23 and 24 of the *Judges Act* his period of service as Chief Commissioner shall be added to his period of service as judge of the Exchequer Court, and for the purposes of section 34 of the *Judges Act* his salary as a puisne judge of the Exchequer Court shall be deemed to be payable under that Act. Chief Commissioner may become judge of Exchequer Court.

(5) Where a Chief Commissioner who made an election under section 27 of the *Judges Act* in respect of his office as Chief Commissioner becomes a puisne judge of the Exchequer Court pursuant to subsection (4), no further election under that section is necessary and the election he made in respect of his office as Chief Commissioner shall be One election only under *Judges Act*.

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deemed

R.S., 1952.

deemed to have been made in respect of his office as a puisne judge of the Exchequer Court at the time he became such a judge.

(6) Any person may be appointed Assistant Chief Commissioner who is or has been a judge of a superior court of Canada or of any province of Canada, or who is a barrister or advocate of at least ten years' standing at the bar of any such province, or who is a barrister or advocate of any such province and has held office as a commissioner of the Board for a period of at least ten years.

(7) The Chief Commissioner is entitled to hold the office of Chief Commissioner, and the Assistant Chief Commissioner the office of Assistant Chief Commissioner or that of Chief Commissioner, so long as they respectively continue to be members of the Board.

Powers of  
Assistant  
Chief Com-  
missioner.

(8) The Assistant Chief Commissioner has all the powers of the Chief Commissioner; but such powers shall not be exercised by him except in the absence of the Chief Commissioner, and whenever he has acted it shall be conclusively presumed that he so acted in the absence or disability of the Chief Commissioner within the meaning of this section. R.S., c. 170, s. 10; 1951 (2nd Sess.), c. 22, s. 1.

Deputy  
Chief Com-  
missioner.

**11.** (1) Another of the commissioners shall be appointed, by the Governor in Council, Deputy Chief Commissioner of the Board.

Powers  
of Deputy  
Chief Com-  
missioner.

(2) In case of the absence of the Chief Commissioner and the Assistant Chief Commissioner, or of their inability to act, the Deputy Chief Commissioner shall exercise the powers of the Chief Commissioner for him or in his stead, and in such case, all regulations, orders and other documents signed by the Deputy Chief Commissioner have the like force and effect as if signed by the Chief Commissioner.

Presump-  
tion.

(3) Whenever the Deputy Chief Commissioner appears to have acted for or instead of the Chief Commissioner, it shall be conclusively presumed that he so acted in the absence or disability of the Chief Commissioner and of the Assistant Chief Commissioner within the meaning of this section.

Authority  
to other  
commis-  
sioner.

(4) Where the Chief Commissioner deems it necessary for the more speedy and convenient despatch of business he may by writing authorize any commissioner to sign regulations, orders and other documents in his stead, and when done pursuant to such authority the same have the like force and effect as if signed by the Chief Commissioner. R.S., c. 170, s. 11.



**12.** (1) Two commissioners form a quorum, and not less than two commissioners shall attend at the hearing of every case, except that

(a) in any case where there is no opposing party and no notice to be given to any interested party, any one commissioner may act alone for the Board, and

Powers of single Commissioner.

(b) the Board, or the Chief Commissioner, may authorize any one of the commissioners to report to the Board upon any question or matter arising in connection with the business of the Board, and when so authorized such commissioner has all the powers of two commissioners sitting together for the purpose of taking evidence or acquiring the necessary information for the purpose of such report, and upon such report being made to the Board, it may be adopted as the order of the Board, or otherwise dealt with as to the Board seems proper.

(2) The Chief Commissioner, when present, shall preside, and the Assistant Chief Commissioner, when present, in the absence of the Chief Commissioner, shall preside, and the opinion of either of them upon any question arising when he is presiding, which in the opinion of the commissioners is a question of law, shall prevail.

Presiding officer.

Questions of law.

(3) No vacancy in the Board impairs the right of the remaining commissioners to act. R.S., c. 170, s. 12.

Vacancy.

**13.** Whenever any commissioner is interested in any matter before the Board, or of kin or affinity to any person interested in any such matter, the Governor in Council may, either upon the application of such commissioner or otherwise, appoint some disinterested person to act as commissioner *pro hac vice*; and the Governor in Council may also, in case of the illness, absence or inability to act of any commissioner, appoint a commissioner *pro hac vice*; but no commissioner is disqualified to act by reason of interest or of kindred or affinity to any person interested in any matter before the Board. R.S., c. 170, s. 13.

Interest, kindred or affinity.

Illness, absence, etc.

**14.** (1) No commissioner or officer of the Board shall directly or indirectly,

Commissioners and officers not to hold interest in stock or equipment.

(a) hold, purchase, take or become interested in any stock, share, bond, debenture or other security, of any company subject to this Act, or

(b) have any interest in any device, appliance, machine, patented process or article, or any part thereof, that may be required or used as a part of the equipment of railways or of any rolling stock to be used thereon, or of any other work or undertaking subject to this Act.

If acquired  
by will or  
succession.

(2) If any such stock, share, bond or other security, device, appliance, machine, patented process or article, or any part thereof or any interest therein, comes to or vests in any commissioner or officer of the Board by will or succession for his own benefit, he shall, within three months thereafter, absolutely sell and dispose of the same, or his interest therein. R.S., c. 170, s. 14.

Residence.

**15.** Each commissioner shall during his term of office reside in the City of Ottawa, or within five miles thereof, or within such distance thereof as the Governor in Council at any time determines. R.S., c. 170, s. 15.

Whole time.

**16.** The commissioners shall devote the whole of their time to the performance of their duties under this Act, and shall not accept or hold any office or employment inconsistent with this section. R.S., c. 170, s. 16.

### *Offices.*

Offices in  
Ottawa.

**17.** (1) The Governor in Council shall, upon the recommendation of the Minister, provide, within the City of Ottawa, a suitable place in which the sessions of the Board may be held, and also suitable offices for the commissioners, and for the Secretary, and the officers and employees of the Board, and all necessary furnishings, stationery and equipment for the conduct, maintenance and performance of the duties of the Board.

Offices  
elsewhere  
than in  
Ottawa.

(2) The Governor in Council, upon the recommendation of the Minister, may establish at any place or places in Canada such office or offices as are required for the Board, and may provide therefor the necessary accommodation, furnishings, stationery and equipment. R.S., c. 170, s. 17.

### *Sittings and Disposal of Business.*

Sittings.

**18.** The Board may hold more than one sitting at the same time, and, whenever circumstances render it expedient to hold a sitting elsewhere than in Ottawa, may hold such sitting in any part of Canada. R.S., c. 170, s. 18.

Sittings,  
how  
conducted.

**19.** (1) The commissioners shall sit at such times and conduct their proceedings in such manner as may seem to them most convenient for the speedy despatch of business.

(2) They may, subject to the provisions of this Act, sit either together or separately, and either in private or in open court; but any complaint made to them shall, on the application of any party to the complaint, be heard and determined in open court. R.S., c. 170, s. 19.

**20.** Subject to the provisions of this Act, the Board may make rules and provisions respecting

Arrangement of sittings and business.

- (a) the sittings of the Board;
- (b) the manner of dealing with matters and business before the Board;
- (c) the apportionment of the work of the Board among its members, and the assignment of members to sit at hearings, and to preside thereat; and
- (d) generally, the carrying on of the work of the Board, the management of its internal affairs, and the duties of its officers and employees;

and in the absence of other rule or provision as to any such matter, such matter shall be in the charge and control of the Chief Commissioner or such other member or members of the Board as the Board directs. R.S., c. 170, s. 20.

*Experts.*

**21.** The Governor in Council may, from time to time, or as the occasion requires, appoint one or more experts, or persons having technical or special knowledge of the matters in question, to assist in an advisory capacity in respect of any matter before the Board. R.S., c. 170, s. 21.

Experts.

*Secretary.*

**22.** There shall be a Secretary of the Board who shall be appointed by the Governor in Council to hold office during pleasure, and who shall reside in the City of Ottawa. R.S., c. 170, s. 22.

Secretary.

**23. (1)** It is the duty of the Secretary

Duties of Secretary.

- (a) to keep a record of all proceedings conducted before the Board or any commissioner under this Act;
- (b) to have the custody and care of all records and documents belonging or appertaining to the Board or filed in his office;
- (c) to obey all rules and directions that may be made or given by the Board, or the Chief Commissioner, touching his duties or office, and in the event of a conflict of such rules or directions those made by the Board prevail; and
- (d) to have every regulation and order of the Board drawn pursuant to the direction of the Board, duly signed and sealed with the official seal of the Board, and filed in the office of the Secretary.

Record  
books.

(2) The Secretary shall keep in his office suitable books of record, in which he shall enter a true copy of every such regulation and order, and every other document that the Board may require to be entered therein, and such entry constitutes and is the original record of any such regulation or order.

Certified  
copies.

(3) Upon application of any person, and on payment of such fees as the Board may prescribe, the Secretary shall deliver to such applicant a certified copy of any such regulation or order. R.S., c. 170, s. 23.

Acting  
secretary.

**24.** In the absence of the Secretary from illness or any other cause, the Board may appoint from its staff an acting secretary, who shall thereupon act in the place of the Secretary, and exercise his powers. R.S., c. 170, s. 24.

### *Staff.*

Staff of  
Board.

**25.** Such other officers, clerks and employees as are necessary for the proper conduct of the business of the Board may be appointed in the manner authorized by law. R.S., c. 170, s. 25.

### *Salaries and Payments.*

Commis-  
sioners'  
salaries.

**26.** (1) The Chief Commissioner shall be paid an annual salary equal to the salary of the President of the Exchequer Court; the Assistant Chief Commissioner shall be paid an annual salary of fourteen thousand dollars, the Deputy Chief Commissioner shall be paid an annual salary of thirteen thousand dollars, and each of the other Commissioners shall be paid an annual salary of twelve thousand dollars.

When  
and how  
payable.

(2) Such salaries shall be paid monthly out of the unappropriated funds in the hands of the Receiver General for Canada.

Secretary.

(3) The Secretary may be paid out of money appropriated by Parliament for such purpose such annual salary as may from time to time be fixed by the Governor in Council. - R.S., c. 170, s. 26; 1951 (2nd Sess.), c. 22, s. 1.

Staff.

**27.** The officers, clerks and employees attached to the Board may be paid out of such money as may be appropriated by Parliament for the purpose. R.S., c. 170, s. 27.

Others.

**28.** Whenever the Board, by virtue of any power vested in it by this Act or any other Act of the Parliament of Canada appoints or directs any person, other than a mem-



ber of the staff of the Board, to perform any service, such person shall be paid therefor such sum for services and expenses as the Governor in Council may, upon the recommendation of the Board, determine. R.S., c. 170, s. 28.

**29.** The salaries or remuneration of all such officers, <sup>Paid</sup> clerks, stenographers, and messengers, and all the expenses <sup>monthly.</sup> of the Board incidental to the carrying out of this Act, including all actual and reasonable travelling expenses of the commissioners and the Secretary, and of such members of the staff of the Board as may be required by the Board to travel, necessarily incurred in attending to the duties of their office, shall be paid monthly out of moneys to be provided by Parliament. R.S., c. 170, s. 29.

*Franking Privilege.*

**30.** All letters or mailable matter addressed to the Board or the Secretary at Ottawa, or sent by the Board or the Secretary from Ottawa, shall be free of Canada postage under such regulations as are from time to time made in that regard by the Governor in Council. R.S., c. 170, s. 30. <sup>Correspondence free of postage.</sup>

*Annual Report.*

**31.** (1) The Board shall, within two months after the 31st day of December in each year, make to the Governor in Council through the Minister, an annual report for the year ended on the 31st day of December, showing briefly, <sup>Annual report to Governor in Council.</sup>

(a) applications to the Board and summaries of the findings thereon under this Act;

(b) summaries of the findings of the Board in regard to any matter or thing respecting which the Board has acted of its own motion, or upon the request of the Minister; and

(c) such other matters as appear to the Board to be of public interest in connection with the persons, companies and railways subject to this Act.

(2) The said report shall be forthwith laid before both Houses of Parliament, if then in session, and if not in session then during the first fifteen days of the next ensuing session of Parliament. R.S., c. 170, s. 31. <sup>Report to be laid before Parliament.</sup>

*General Jurisdiction and Powers.*

**32.** Whenever, by an Act or document, the Railway Committee of the Privy Council is given any power or authority, or charged with any duty with regard to any <sup>Powers of Railway Committee transferred.</sup>

company, railway, matter or thing, such power, authority or duty may, or shall, be exercised by the Board. R.S., c. 170, s. 32.

Jurisdiction.

**33.** (1) The Board has full jurisdiction to inquire into, hear and determine any application by or on behalf of any party interested,

(a) complaining that any company, or person, has failed to do any act, matter or thing required to be done by this Act, or the Special Act, or by any regulation, order or direction made thereunder by the Governor in Council, the Minister, the Board, or any inspecting engineer or other lawful authority, or that any company or person has done or is doing any act, matter or thing contrary to or in violation of this Act, or the Special Act, or any such regulation, order, or direction, or

(b) requesting the Board to make any order, or give any direction, leave, sanction or approval, that by law it is authorized to make or give, or with respect to any matter, act or thing, that by this Act, or the Special Act, is prohibited, sanctioned or required to be done.

Mandatory orders.

(2) The Board may order and require any company or person to do forthwith, or within or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with this Act, any act, matter or thing that such company or person is or may be required to do under this Act, or the Special Act, and may forbid the doing or continuing of any act, matter or thing which is contrary to this Act, or the Special Act; and for the purposes of this Act has full jurisdiction to hear and determine all matters whether of law or of fact.

Restraining orders.

All powers of a superior court.

(3) The Board, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of its jurisdiction, has all such powers, rights and privileges as are vested in a superior court.

Appointment of receiver not to oust jurisdiction of Board.

(4) The fact that a receiver, manager, or other official of any railway, or a receiver of the property of a railway company, has been appointed by any court in Canada or any province thereof, or is managing or operating a railway under the authority of any such court, is not a bar to the exercise by the Board of its jurisdiction; but every such receiver, manager, or official is bound to manage and operate any such railway in accordance with this Act and with the orders and directions of the Board, whether general or



referring particularly to such railway; and every such receiver, manager, or official, and every person acting under him, shall obey all orders of the Board within its jurisdiction in respect of such railway, and be subject to have them enforced against him by the Board, notwithstanding the fact that such receiver, manager, official, or person is appointed by or acts under the authority of any court; and wherever by reason of insolvency, sale under mortgage, or any other cause, a railway or section thereof is operated, managed or held otherwise than by the company, the Board may make any order it deems proper for adapting and applying the provisions of this Act to such case.

Adapting  
and apply-  
ing Act.

(5) The decision of the Board as to whether any com-pany, municipality or person is or is not a party interested within the meaning of this section is binding and conclusive upon all companies, municipalities and persons. R.S., c. 170, s. 33.

Certain  
decisions  
of Board  
conclusive.

- 34.** (1) The Board may make orders or regulations
- (a) with respect to any matter, act or thing that by this or the Special Act is sanctioned, required to be done, or prohibited;
  - (b) generally for carrying this Act into effect; and
  - (c) for exercising any jurisdiction conferred on the Board by any other Act of the Parliament of Canada.

Power to  
make orders  
and regu-  
lations.

(2) Any such orders or regulations may be made to apply to all cases or to any particular case or class of cases, or to any particular district, or to any railway or other work, or section or portion thereof; and the Board may exempt any railway or other work, or section or portion thereof, from the operation of any such order or regulation for such time or during such period as the Board deems expedient; and such orders or regulations may be for such time as the Board deems fit, and may be rescinded, amended, changed, altered or varied as the Board thinks proper.

Application.

(3) The Board may by regulation or order provide penalties, when not already provided in this Act, to which every company or person who offends against any regulation or order made by the Board shall be liable.

Penalties.

(4) The imposition of any such penalty does not lessen or affect any other liability that any company or person may have incurred. R.S., c. 170, s. 34.

Other  
liability.

**35.** Where it is complained by or on behalf of the Crown or any municipal or other corporation or any other person aggrieved, that the company has violated or committed a breach of an agreement between the complainant and the

Jurisdiction  
of Board  
as to  
agree-  
ments

company—or by the company that any such corporation or person has violated or committed a breach of an agreement between the company and such corporation or person—for the provision, construction, reconstruction, alteration, installation, operation, use or maintenance by the company, or by such corporation or person, of the railway or of any line of railway intended to be operated in connection with or as part of the railway, or of any structure, appliance, equipment, works, renewals or repairs upon or in connection with the railway, the Board shall hear all matters relating to such alleged violation or breach, and shall make such order as to the Board may seem reasonable and expedient, and in such order may, in its discretion, direct the company, or such corporation or person, to do such things as are necessary for the proper fulfilment of such agreement, or to refrain from doing such acts as constitute a violation or a breach thereof. R.S., c. 170, s. 35.

Board may  
act upon its  
own motion.

**36.** The Board may, of its own motion, or shall, upon the request of the Minister, inquire into, hear and determine any matter or thing that, under this Act, it may inquire into, hear and determine upon application or complaint, and with respect thereto has the same powers as, upon any application or complaint, are vested in it by this Act. R.S., c. 170, s. 36.

From time  
to time.

**37.** Any power or authority vested in the Board may, though not so expressed, be exercised from time to time, or at any time, as the occasion may require. R.S., c. 170, s. 37.

Governor  
in Council  
may refer  
to Board  
for report  
or action.

**38.** The Governor in Council may at any time refer to the Board for a report, or other action, any question, matter or thing arising, or required to be done, under this Act, or the Special Act, or any other Act of the Parliament of Canada, and the Board shall without delay comply with the requirements of such reference. R.S., c. 170, s. 38.

Works  
ordered by  
the Board.

**39.** (1) When the Board, in the exercise of any power vested in it, in and by any order directs or permits any structure, appliances, equipment, works, renewals or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may, except as otherwise expressly provided, order by what company, municipality or person, interested or affected by such order, as the case may be, and when or within what time and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision, the same shall be provided, constructed, reconstructed, altered, installed, operated, used and maintained.

(2) The Board may, except as otherwise expressly provided, order by whom, in what proportion, and when, the cost and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals, or repairs, or of the supervision, if any, or of the continued operation, use or maintenance thereof, or of otherwise complying with such order, shall be paid. R.S., c. 170, s. 39.

Cost, by  
whom paid.

40. Whenever any Act of the Parliament of Canada requires or directs that before the doing of any work the approval of the Board must be first obtained, and whenever any such work has been done without such approval, the Board nevertheless has power to approve of the same and to impose any terms and conditions upon such company that may be thought proper in the premises; but where the doing of such work affects the safety of the public or the employees, no such approval shall be given without due notice and hearing. R.S., c. 170, s. 40.

Approval of  
certain  
works after  
construction.

41. When any work, act, matter or thing is, by any regulation, order or decision of the Board, required to be done, performed or completed within a specified time, the Board may, if the circumstances of the case in its opinion so require, upon notice and hearing or, in its discretion, upon *ex parte* application, extend the time so specified; but where such regulation, order or decision requires any act, matter or thing to be done for the safety of the public or the employees of the railway, no extension shall be granted without hearing on notice. R.S., c. 170, s. 41.

Extension  
of time  
specified by  
Board.

42. (1) Notwithstanding anything in any special Act heretofore passed, the Board has jurisdiction and control over tolls to be charged in respect of the use for pedestrian, vehicular, tramway, street railway, railway or other like traffic on, over, across or through international bridges owned or operated by any company, and all the provisions of this Act relating to tolls and tariffs apply *mutatis mutandis*.

Jurisdiction  
of Board  
over tolls on  
international  
bridges.

(2) For the purposes of this section, "international bridge", means bridges or tunnels (including the approaches or facilities connected therewith) over or under any waterway being or running along or across the boundary between Canada and any foreign country. 1929, c. 54, s. 1.

"Inter-  
national  
bridges"  
defined.

43. The Board may, in any application, proceeding or matter of special importance pending before it, if in the opinion of the Board the public interest so requires, apply

Employ-  
ment of  
counsel in  
public  
interest.

4569

to

R.S., 1952.



to the Minister of Justice to instruct counsel to conduct or argue the case or any particular question arising in the application, proceeding or matter as to any public interest that is or may be affected thereby or by any order or decision which may be made therein; and, upon such application to him by the Board, or of his own motion, the Minister of Justice may instruct counsel accordingly. R.S., c. 170, s. 42.

Stated case  
for  
Supreme  
Court of  
Canada.

**44.** (1) The Board may of its own motion, or upon the application of any party, and upon such security being given as it directs, or at the request of the Governor in Council, state a case, in writing, for the opinion of the Supreme Court of Canada upon any question that in the opinion of the Board is a question of law or of the jurisdiction of the Board.

Proceed-  
ings  
thereon.

(2) The Supreme Court of Canada shall hear and determine such question, and remit the matter to the Board with the opinion of the Court thereon. R.S., c. 170, s. 43.

Effect of  
judgment  
of other  
courts.

**45.** (1) In determining any question of fact, the Board is not concluded by the finding or judgment of any other court, in any suit, prosecution or proceeding involving the determination of such fact, but such finding or judgment, in proceedings before the Board, is *prima facie* evidence only.

*Lis  
pendens.*

(2) The pendency of any suit, prosecution or proceeding, in any other court, involving questions of fact, does not deprive the Board of jurisdiction to hear and determine the same questions of fact.

Findings  
of fact  
conclusive.

(3) The finding or determination of the Board upon any question of fact within its jurisdiction is binding and conclusive. R.S., c. 170, s. 44.

### *Orders and Decisions.*

Orders  
may come  
into  
force:

Upon con-  
tingency;

Upon  
terms;

For lim-  
ited time.

**46.** (1) The Board may direct in any order that such order or any portion or provision thereof, shall come into force at a future time or upon the happening of any contingency, event or condition in such order specified, or upon the performance to the satisfaction of the Board, or a person named by it, of any terms which the Board may impose upon any party interested, and the Board may direct that the whole, or any portion of such order, shall have force for a limited time, or until the happening of a specified event.

(2) The Board may, instead of making an order final in the first instance, make an interim order, and reserve further directions either for an adjourned hearing of the matter, or for further application. R.S., c. 170, s. 45. Interim orders.

47. Upon any application made to the Board, the Board may make an order granting the whole or part only of such application, or may grant such further or other relief, in addition to or in substitution for that applied for, as to the Board may seem just and proper, as fully in all respects as if such application had been for such partial, other, or further relief. R.S., c. 170, s. 46. Relief.

48. The Board may, if the special circumstances of any case so require, make an interim *ex parte* order authorizing, requiring or forbidding anything to be done that the Board would be empowered, on application, notice and hearing, to authorize, require or forbid; but no such interim order shall be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined. R.S., c. 170, s. 47. Interim *ex parte* order.

49. No order of the Board need show upon its face that any proceeding or notice was had or given, or any circumstance necessary to give it jurisdiction to make such order. R.S., c. 170, s. 48. Order need not show jurisdiction.

50. (1) Any decision or order, made by the Board may be made a rule, order or decree of the Exchequer Court, or of any superior court of any province of Canada, and shall be enforced in like manner as any rule, order or decree of such court. Rule of court.

(2) To make such decision or order a rule, order or decree of any such court, the usual practice and procedure of the court in such matters may be followed; or, in lieu thereof, the Secretary may make a certified copy of such decision or order, upon which shall be made the following endorsement signed by the Chief Commissioner and sealed with the official seal of the Board: Practice.

To move to make the within a rule (order or decree, as the case may be) of the Exchequer Court of Canada (or as the case may be).

Dated this                      day of                      A.D. 19

A.B.

[Seal.] Chief Commissioner of the Board of Transport Commissioners for Canada.

4571

(3)

R.S., 1952.

Copy to the registrar.

(3) The Secretary may forward such certified copy, so endorsed, to the registrar, or other proper officer of such court, who shall, on receipt thereof, enter the same as of record, and the same shall thereupon become and be such rule, order or decree of such court.

When order rescinded or changed.

(4) When a decision or order of the Board under this Act, or of the Railway Committee of the Privy Council under the *Railway Act, 1888*, has been made a rule, order or decree of any court, any order or decision of the Board rescinding or changing the same shall be deemed to cancel the rule, order or decree of such court, and may, in like manner, be made a rule, order or decree of such court.

Optional to enforce otherwise.

(5) It is optional with the Board, either before or after its decision or order is made a rule, order or decree of any court, to enforce such decision or order by its own action. R.S., c. 170, s. 49; 1938, c. 53, s. 3.

In *Canada Gazette*.

**51.** Any rule, regulation, order or decision of the Board, when published by the Board, or by leave of the Board, for three weeks in the *Canada Gazette*, and while the same remains in force, has the like effect as if enacted in this Act. and all courts shall take judicial notice thereof. R.S., c. 170, s. 50.

### *Review and Appeal.*

Board may review, etc.

**52.** The Board may review, rescind, change, alter or vary any order or decision made by it, or may rehear any application before deciding it. R.S., c. 170, s. 51.

Governor in Council may vary or rescind.

**53.** (1) The Governor in Council may at any time, in his discretion, either upon petition of any party, person or company interested, or of his own motion, and without any petition or application, vary or rescind any order, decision, rule or regulation of the Board, whether such order or decision is made *inter partes* or otherwise, and whether such regulation is general or limited in its scope and application; and any order that the Governor in Council may make with respect thereto is binding upon the Board and upon all parties.

Appeal to Supreme Court as to question of law or jurisdiction by leave of judge.

(2) An appeal lies from the Board to the Supreme Court of Canada upon a question of law, or a question of jurisdiction, upon leave therefor being obtained from a judge of the Supreme Court upon application made within one month after the making of the order, decision, rule or regulation sought to be appealed from or within such further time as the judge under special circumstances allows, and



upon notice to the parties and the Board, and upon hearing such of them as appear and desire to be heard; and the costs of such application are in the discretion of the judge.

(3) No appeal, after leave therefor has been obtained under subsection (2), lies unless it is entered in the Supreme Court within sixty days from the making of the order granting leave to appeal. Entry of application.

(4) Upon such leave being obtained the party so appealing shall deposit with the Registrar of the Supreme Court of Canada the sum of two hundred and fifty dollars, by way of security for costs, and thereupon the Registrar shall set the appeal down for hearing at the nearest convenient time; and the party appealing shall, within ten days after the appeal has been so set down, give to the parties affected by the appeal, or the respective solicitors by whom such parties were represented before the Board, and to the Secretary, notice in writing that the case has been so set down to be heard in appeal as aforesaid; and the said appeal shall be heard by such Court as speedily as practicable. Security for costs.  
Notice of appeal.

(5) On the hearing of any appeal, the Court may draw all such inferences as are not inconsistent with the facts expressly found by the Board, and are necessary for determining the question of jurisdiction, or law, as the case may be, and shall certify its opinion to the Board, and the Board shall make an order in accordance with such opinion. Powers of the Court.

(6) The Board is entitled to be heard by counsel or otherwise, upon the argument of any such appeal. Board may be heard.

(7) The Court has power to fix the costs and fees to be taxed, allowed and paid upon such appeals, and to make rules of practice respecting appeals under this section; and, until such rules are made, the rules and practice applicable to appeals from the Exchequer Court are applicable to appeals under this Act. Costs.  
Practice.

(8) Neither the Board nor any member of the Board is in any case liable to any costs by reason or in respect of any appeal or application under this section. Members of Board not liable for costs.

(9) Save as provided in this section,  
 (a) every decision or order of the Board is final, and  
 (b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari*, or any other process or proceeding in any court. R.S., c. 170, s. 52; 1951 (2nd Sess.), c. 22, s. 4. Proceedings of Board final save as above.

*Practice and Procedure.*

Rules of  
practice  
and  
procedure.

**54.** The Board may make general rules regulating, so far as not inconsistent with the express provisions of this Act, its practice and procedure. R.S., c. 170, s. 53.

*Notice and Service.*

Notices,  
how  
signed:

**55.** Any notice required or authorized to be given in writing

By Board;

(a) by the Board, may be signed by the Secretary or Chief Commissioner;

By Minister and  
others;

(b) by the Minister, inspecting engineer, or other officer or person appointed by the Minister, or the Board, may be signed by the Minister, or by such inspecting engineer, officer or other person, as the case may be;

By company or  
corporation;

(c) by any company or corporation, may be signed by the president or secretary, or mayor, warden, reeve or other principal officer thereof, or by its duly authorized agent or solicitor; and

By any  
person.

(d) by any person, may be signed by such person or his duly authorized agent or solicitor. R.S., c. 170, s. 54.

Mode of  
service.

**56.** (1) Service of any notice, summons, regulation, order, direction, decision, report or other document, unless in any case otherwise provided, may be effected

On companies required  
to name  
agent.

(a) upon a railway, telegraph, telephone, or express company to which this Act in whole or in part applies, by delivering the document or a copy thereof to the person entered by the company as its agent in the agents' book in subsection (3) provided for; or at his residence, to any member of his household; or at the place of business or other place entered in the agents' book, to any clerk or adult person in his employ; or if at the time of attendance to serve any document the place of business or other place aforesaid is closed or no one is in attendance therein for receiving service, service of the document may be effectively made by mailing the same or a copy thereof at any time during the same day or the next following day by registered letter, postage prepaid, addressed to the agent at such place of business or other place, and the service shall be deemed to have been effected at the time of attendance for service; or if the company has not caused the required entry to be made in the agents' book, then posting up the document or a copy thereof in the office of the Secretary of the Board is effective service upon the company, unless the Board otherwise orders;

but the Board may in any case direct that the fact of service upon an agent and the nature of the document served shall be communicated to the company by telegraph, or may make any other order or direction it deems proper as to such service;

- (b) upon any railway company, whether included in paragraph (a) or not, by delivering the document or a copy thereof to the president, a vice-president, or a managing director, or the secretary or superintendent of the company; or at the head or any principal office of the company, to some adult person in its employ; Railway companies.
- (c) upon any company other than a railway company, whether such company is included in paragraph (a) or not, by delivering the document or a copy thereof to the president, a vice-president, or the manager or secretary of the company; or at its head office, to some adult person in its employ; Other companies.
- (d) upon a municipality or civic or municipal corporation, by delivering the document or a copy thereof to the mayor, warden, reeve, secretary, treasurer, clerk, chamberlain or other principal officer thereof; Municipalities.
- (e) upon a firm or co-partnership, by delivering the document or a copy thereof to any member of such firm or co-partnership; or at the last place of abode of any such member, to any adult member of his household; or at the office or place of business of the firm, to a clerk employed therein; and Co-partnerships.
- (f) upon an individual, by delivering the document or a copy thereof to him; or at his last place of abode, to any adult member of his household; or at his office or place of business, to a clerk in his employ. Individuals.

(2) Where in any case within the jurisdiction of the Minister, or the Board, it is made to appear to the satisfaction of the Minister, or the Board, as the case may be, that service cannot conveniently be made in the manner provided in subsection (1) the Minister, or the Board, as the case may be, may order and allow service to be made by publication of the document or notice thereof for any period not less than three weeks in the *Canada Gazette*, and also, if so ordered, in any other newspaper; and such publication shall be deemed to be equivalent to service in the manner provided in subsection (1). Order for service by publication.

(3) There shall be kept in the office of the Secretary of the Board a book to be called the agents' book in which every railway, telegraph, telephone, and express company to which this Act in whole or in part applies shall enter Agents' book.

its name and the place of its head office and the name of an agent at Ottawa and his place of business or some other proper place within Ottawa where he may be served for such company. R.S., c. 170, s. 55.

Duty of  
company  
upon being  
served.

**57.** Every company shall, as soon as possible after receiving or being served with any regulation, order, direction, decision, notice, report or other document of the Minister, or the Board, or the inspecting engineer, notify the same to each of its officers and servants performing duties which are or may be affected thereby, by delivering a copy to him or by posting up a copy in some place where his work or his duties, or some of them, are to be performed. R.S., c. 170, s. 56.

Notice of  
application.

**58.** Unless otherwise provided, fifteen days' notice of any application to the Board, or of any hearing by the Board, is sufficient, but the Board may in any case direct longer notice or allow notice for any period less than fifteen days. R.S., c. 170, s. 57.

Notice of  
application  
for  
permission  
to work on  
Sunday.

**59.** (1) Notice of any application to the Board for permission as provided by the *Lord's Day Act*, to perform any work on the Lord's Day in connection with the freight traffic of any railway, shall be given to the Department of Transport, and shall fully set out the reasons relied upon.

Costs.

(2) The costs of any such application shall be borne by the applicant, and if more than one, in such proportions as the Board determines.

Procedure  
in other  
respects.

(3) In all other respects the procedure provided by this Act, so far as applicable, applies to any such application. R.S., c. 170, s. 58; 1936, c. 34, s. 3.

*Ex parte.*

**60.** (1) Except as herein otherwise provided, when the Board is authorized to hear an application, complaint or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties; and such order or decision is as valid and takes effect in all respects as if made on due notice.

Rehearing.

(2) Any company or person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of such order or decision, or within such further time as the Board may allow, apply to the Board



to vary, amend or rescind such order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind such order or decision, or dismiss the application, as may seem to it just and right. R.S., c. 170, s. 59.

*Amending Proceedings.*

**61.** The Board may, upon terms or otherwise, make or allow any amendments in any proceedings before it. R.S., c. 170, s. 60. Amendments.

*Costs.*

**62.** (1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, are in the discretion of the Board, and may be fixed in any case at a sum certain, or may be taxed. Costs.

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed. Payment.

(3) The Board may prescribe a scale under which such costs shall be taxed. R.S., c. 170, s. 61. Scale.

*Witnesses and Evidence.*

**63.** (1) The Board may order that any witness resident or present in Canada may be examined upon oath before, or make production of books, papers, documents or articles to, any one member of the Board, or before or to any officer of the Board, or before or to any other person named for the purpose by the order of the Board, and may make such orders as seem to it proper for securing the attendance of such witness and his examination, and the production by him of books, papers, documents, or articles, and the use of the evidence so obtained, and otherwise exercise, for the enforcement of such orders or punishment for disobedience thereof, all powers that are exercised by any superior court in Canada for the enforcement of subpoenas to witnesses or punishment of disobedience thereof; no person is compellable, against his will, to attend for such examination or production at any place outside the province in which he is served with the order of the Board for the purpose. Powers regarding witnesses and evidence.

(2) The Board may issue commissions to take evidence in a foreign country, and make all proper orders for the purpose, and for the return and use of the evidence so obtained. R.S., c. 170, s. 62. Commissions to take evidence in foreign countries.

Evidence  
by affidavit.

**64.** (1) The Board may accept evidence upon affidavit or written affirmation, in cases in which it seems to it proper to do so.

Who may  
administer  
oaths in  
Canada.

(2) All persons authorized to administer oaths to be used in any of the superior courts of any province may administer oaths in such province to be used in applications, matters or proceedings before the Board.

Commis-  
sioners for  
Supreme  
and  
Exchequer  
Courts.

(3) All persons authorized by the Governor in Council to administer oaths within or out of Canada, in or concerning any proceeding had or to be had in the Supreme Court of Canada or in the Exchequer Court of Canada, may administer oaths in or concerning any application, matter, or proceeding before the Board.

Oaths  
outside  
Canada.

(4) An oath administered out of Canada, before any commissioner authorized to take affidavits to be used in Her Majesty's High Court of Justice in England, or before any notary public, certified under his hand and official seal, or before the mayor or chief magistrate of any city, borough or town corporate in Great Britain or Ireland, or in any colony or possession of Her Majesty out of Canada, or in any foreign country, and certified under the common seal of such city, borough, or town corporate, or before a judge of any court of supreme jurisdiction in any colony or possession of Her Majesty, or dependency of the Crown out of Canada, or before any consul, vice-consul, acting-consul, pro-consul or consular agent of Her Majesty exercising his functions in any foreign place, certified under his official seal, concerning any application, matter or proceeding had or to be had by or before the Board, is as valid and of like effect, to all intents, as if it had been administered before a person authorized by the Governor in Council as provided in this section.

Documents  
in testi-  
mony of ad-  
ministra-  
tion of  
oaths.

(5) Every document purporting to have affixed, imprinted or subscribed thereon or thereto, the signature of any such person or commissioner so authorized as aforesaid, or the signature or official seal of any such notary public, or the signature of any such mayor or chief magistrate and the common seal of the corporation, or the signature and official seal of any such consul, vice-consul, acting-consul, pro-consul or consular agent, in testimony of any oath having been administered by or before him, shall be admitted in evidence before the Board without proof of any such signature or seal being the signature or seal of the person or corporation whose signature or seal it purports to be, or of the official character of such person.



(6) No informality in the heading or other formal requisites of any oath made before any person under any provision of this section is an objection to its reception in evidence before the Board, if the Board thinks proper to receive it; and if it is actually sworn to by the person making it before any person duly authorized thereto, and is received in evidence, no such informality shall be set up to defeat an indictment for perjury. R.S., c. 170, s. 63.

Informal-  
ities shall  
not  
invalidate.

**65.** Every person summoned to attend before the Minister or the Board, or before any inspecting engineer, or person appointed under this Act to make inquiry and report shall, in the discretion of the Minister or the Board, receive the like fees and allowances for so doing as if summoned to attend before the Exchequer Court. R.S., c. 170, s. 64.

Fees and  
allowances.

**66.** No person shall be excused from attending and producing books, papers, tariffs, contracts, agreements and documents, in obedience to the subpoena or order of the Board, or of any person authorized to hold any investigation or inquiry under this Act, or in any cause or proceeding based upon or arising out of any alleged violation of this Act, on the ground that the documentary evidence required of him may tend to criminate him or subject him to any proceeding or penalty; but no such book, paper, tariffs, contract, agreement or document so produced shall be used or receivable against such person in any criminal proceeding thereafter instituted against him, other than a prosecution for perjury in giving evidence upon such investigation or inquiry, cause or proceeding. R.S., c. 170, s. 65.

No person  
to be  
excused  
from  
producing.

**67.** In any proceeding before the Board and in any action or proceeding under this Act, every written or printed document purporting to have been issued or authorized by the company, or any officer, agent, or employee of the company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of such document by the company and of the contents thereof, without any further proof than the mere production of such document. R.S., c. 170, s. 66.

Documents  
issued by  
the  
company.

**68.** (1) Every document purporting to be signed by the Minister, or by the Chief Commissioner and Secretary or either of them, or by an inspecting engineer, is, without proof of any such signature, *prima facie* evidence that such document was duly signed and issued by the Minister, the Board, or inspecting engineer, as the case may be.

Documents  
issued by  
Minister,  
Board or  
engineer.

Copies.

(2) If such document purports to be a copy of any regulation, order, direction, decision or report made or given by the Minister, the Board, or an inspecting engineer, it is *prima facie* evidence of such regulation, order, direction, decision or report. R.S., c. 170, s. 67.

Documents  
certified by  
Secretary.

**69.** (1) Any document purporting to be certified by the Secretary as being a copy of any plan, profile, book of reference or other document deposited with the Board, or of any portion thereof, is, without proof of the signature of the Secretary, *prima facie* evidence of such original document, and that the same is so deposited, and is signed, certified, attested or executed by the persons by whom and in the manner in which, the same purports to be signed, certified, attested or executed, as shown or appearing from such certified copy; and also, if such certificate states the time when such original was so deposited, that the same was deposited at the time so stated.

Documents  
in custody  
of the  
Board.

(2) A copy of any regulation, order or other document in the custody of the Secretary or of record with the Board, certified by the Secretary to be a true copy, and sealed with the seal of the Board, is *prima facie* evidence of such regulation, order or document, without proof of signature of the Secretary.

Certificate  
that no  
order or  
regulation  
made.

(3) A certificate purporting to be signed by the Secretary, sealed with the seal of the Board, is *prima facie* evidence of the facts therein stated without proof of the signature of the Secretary. R.S., c. 170, s. 68.

### Inquiries.

Board may  
order.

**70.** (1) The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute pending before the Board, or upon any matter or thing over which the Board has jurisdiction under this or the Special Act.

Minister  
may order  
inquiry.

(2) The Minister may, with the approval of the Governor in Council, appoint and direct any person to inquire into and report upon any matter or thing which the Minister is authorized to deal with under this Act or the Special Act. R.S., c. 170, s. 69.

Powers.

**71.** The Minister, the Board, or the inspecting engineer, or person appointed under this Act to make any inquiry or report may

Entry.

(a) enter upon and inspect any place, building, or works, being the property or under the control of any company, the entry or inspection of which appears to it or him requisite;

- (b) inspect any works, structure, rolling stock or other property of the company; Inspection.
  - (c) require the attendance of all such persons as it or he thinks fit to summon and examine, and require answers or returns to such inquiries as it or he thinks fit to make; Attendance and returns.
  - (d) require the production of all material books, papers, plans, specifications, drawings and documents; and Production.
  - (e) administer oaths, affirmations or declarations; Oaths.
- and has the like power in summoning witnesses and enforcing their attendance, and compelling them to give evidence and produce books, papers or things that they are required to produce, as is vested in any court in civil cases. R.S., c. 170, s. 70. Generally.

### *Inspecting Engineers.*

**72.** (1) Inspecting engineers may be appointed by the Minister or the Board, subject to the approval of the Governor in Council. Appointment of inspecting engineers.

(2) It is the duty of every such inspecting engineer, upon being directed by the Minister or the Board, as the case may be, to inspect any railway, or any branch line, siding, or portion thereof, whether constructed, or in the course of construction, to examine the stations, rolling stock, rails, roadbed, right of way, tracks, bridges, tunnels, trestles, viaducts, drainage, culverts, railway crossings and junctions, highway and farm crossings, fences, gates, and cattleguards, telegraph, telephone or other lines of electricity, and all other buildings, works, structures, equipment, apparatus, and appliances thereon, or to be constructed or used thereon, or such part thereof as the Minister, or the Board, as the case may be, may direct, and forthwith to report fully thereon in writing to the Minister or the Board, as the case may be. Duties.

(3) Every such inspecting engineer has the same powers with regard to any such inspection as are by this Act conferred upon a person appointed by the Board to make an inquiry and report upon any matter pending before the Board. Powers of inspecting engineer.

(4) Every company, and the officers and directors thereof, shall afford to any inspecting engineer such information as is within their knowledge and power, in all matters inquired into by him, and shall submit to such inspecting engineer all plans, specifications, drawings and documents relating to the construction, repair, or state of repair of the railway, or any portion thereof. Duties of company respecting inspecting engineers.

Inspecting engineers may travel free.

Use telegraph wires.

Transmission of telegrams.

Proof of engineer's authority.

(5) Every such inspecting engineer has the right, while engaged in the business of such inspection, to travel without charge on any of the ordinary passenger trains running on the railway, and to use without charge the telegraph-wires and machinery in the offices or under the control of any such company.

(6) The operators, or officers, employed in the telegraph offices or under the control of the company, shall, without unnecessary delay, obey all orders of any such inspecting engineer for transmitting messages.

(7) The production of his appointment in writing, signed by the Minister, the Chief Commissioner, or the Secretary, is sufficient evidence of the authority of such inspecting engineer. R.S., c. 170, s. 71.

#### RAILWAY COMPANIES.

##### *Incorporation.*

General powers.

**73.** Every railway company incorporated under a Special Act is a body corporate, under the name declared therein, and is vested with all such powers, privileges and immunities as are necessary to carry into effect the intention and objects of this Act, and of the Special Act, and which are incident to such corporation, or are expressed or included in the *Interpretation Act*. R.S., c. 170, s. 72.

##### *Offices.*

Head office.

**74.** (1) The head office of the company shall be in the place designated in the Special Act, but the company may, by by-law, from time to time, change the location of its head office to any place in Canada; notice of any such change shall be given to the Secretary of the Board.

Change of location.

To be registered.

(2) The Secretary of the Board shall keep a register wherein he shall enter all such changes of location so notified to him.

Other offices.

(3) The directors of the company may establish one or more offices in other places in Canada or elsewhere. R.S., c. 170, s. 73.

##### *Provisional Directors.*

Provisional directors.

**75.** (1) The persons mentioned by name as such in the Special Act are the provisional directors of the company.

Quorum.

(2) A majority of such provisional directors constitute a quorum.



(3) The provisional directors may

Powers.

- (a) forthwith open stock books and procure subscriptions of stock for the undertaking;
- (b) receive payments on account of stock subscribed;
- (c) cause plans and surveys to be made; and
- (d) deposit in any chartered bank of Canada moneys received by them on account of stock subscribed.

(4) The moneys so received and deposited shall not be withdrawn, except for the purposes of the undertaking, or upon the dissolution of the company.

Moneys deposited.

(5) The provisional directors hold office as such until the first election of directors. R.S., c. 170, s. 74.

Tenure of office.

**76.** If more than the whole stock has been subscribed, the provisional directors shall allocate and apportion the authorized stock among the subscribers as they deem most advantageous and conducive to the furtherance of the undertaking. R.S., c. 170, s. 75.

Allotment of stock.

### Capital.

**77.** (1) The capital stock of the company, the amount of which shall be stated in the Special Act, shall be divided into shares of one hundred dollars each.

Shares.

(2) The moneys raised from the capital stock shall be applied, in the first place, to the payment of all fees, expenses and disbursements for procuring the passing of the Special Act, and for making the surveys, plans and estimates of the works authorized by the Special Act; and all the remainder of such moneys shall be applied to the making, equipping, completing and maintaining of the railway, and other purposes of the undertaking. R.S., c. 170, s. 76.

Application of proceeds.

**78.** (1) So soon as twenty-five per cent of the capital has been subscribed, and ten per cent of the amount subscribed has been paid into some chartered bank in Canada, the provisional directors shall call a meeting of the shareholders of the company at the place where the head office is situate, at which meeting the shareholders who have paid at least ten per cent on the amount of stock subscribed for by them shall, from the shareholders possessing the qualifications hereinafter mentioned, elect the number of directors prescribed by the Special Act.

First meeting of shareholders.

(2) Notice of such meeting shall be given by advertisement for the time and in the manner hereinafter required for meetings of shareholders. R.S., c. 170, s. 77.

Notice thereof.



Increase of capital stock.

**79.** (1) The original capital stock of the company may, with the approval of the Governor in Council, be increased, from time to time, to any amount, if

By vote.

(a) such increase is sanctioned by a vote, in person or by proxy, of the shareholders who hold at least two-thirds in amount of the subscribed stock of the company, at a meeting expressly called by the directors for that purpose, and

Minutes.

(b) the proceedings of such meeting have been entered in the minutes of the proceedings of the company.

Notice of meetings and object.

(2) Notice in writing stating the time, place and object of such meeting, and the amount of the proposed increase, shall be given to each shareholder, at least twenty days previously to such meeting, by delivering the notice to the shareholder personally, or depositing the same in the post office, post paid, and properly directed to the shareholder. R.S., c. 170, s. 78.

Shares.

Personal property.

**80.** The stock of the company is personal property. R.S., c. 170, s. 79.

Registration of transfers.

**81.** (1) Subject to subsection (2), no transfer of shares, unless made by sale under execution, or under the decree, order or judgment of a court of competent jurisdiction is valid for any purpose whatever, until entry thereof is duly made in the register of transfers, except for the purpose of exhibiting the rights of the parties thereto towards each other, and of rendering the transferee liable, in the meantime, jointly and severally, with the transferor to the company and its creditors.

Exception as to listed shares represented by scrip.

(2) In the case of the stock of any company listed and dealt with on any recognized stock exchange by means of scrip, commonly in use endorsed in blank and transferable by delivery, such endorsement and delivery, except for the purpose of voting at meetings of the company, constitutes a valid transfer. R.S., c. 170, s. 80.

Form of transfer.

**82.** (1) Transfers, except in the case of fully paid-up shares, shall be in the form following, or to the like effect, varying the names and descriptions of the contracting parties as the case requires, that is to say:

I, (A.B.), in consideration of the sum of                      paid to me by (C.D.), hereby sell and transfer to him                      share (or shares) of the stock of the                      , to hold to him, the said (C.D.), his executors, administrators and assigns (or successors and assigns, *as the case may be*), subject to the

same rules and orders and on the same conditions upon which I held the same immediately before the execution hereof. And I, the said (C.D.), do hereby agree to accept of the said (A.B.) share (or shares) subject to the same rules, orders and conditions.

Witness our hands this            day of            , in the year 19

(2) In the case of fully paid shares the transfer may be in such form as is prescribed by by-law of the company. As to paid-up shares.  
R.S., c. 170, s. 81.

**83.** (1) No shares are transferable until all previous calls thereon have been fully paid up, or until the said shares have been declared forfeited for the non-payment of calls thereon. Restrictions on transfers.

(2) No transfer of less than a whole share is valid. R.S., Whole share.  
c. 170, s. 82.

**84.** Every shareholder is entitled to have a certificate of proprietorship signed by the officers designated by the board of directors for the purpose, certifying the number of shares held by him and the class thereof; where any such certificate is signed by a transfer agent acting on behalf of the company, and by a registrar, the signatures of such officers may be facsimiles engraved, printed or otherwise mechanically reproduced; in case any such officer who has signed or whose facsimile signature has been placed upon such certificate has ceased to be such before such certificate is issued, it may be issued by the company with the same effect as if such officer had not ceased to be such at the date of its issue. 1930, c. 36, s. 1. Signatures on certificates may be facsimiles.

**85.** The certificate of proprietorship of any share is *prima facie* evidence of the title of any shareholder, his executors, administrators or assigns, or successors and assigns, as the case may be, to the share therein specified. Certificate of proprietorship of share.  
R.S., c. 170, s. 83.

**86.** The want of a certificate of proprietorship does not prevent the holder of any share from disposing thereof. Sale without certificate.  
R.S., c. 170, s. 84.

**87.** (1) If any share in the capital stock of the company is transmitted by the death, bankruptcy, last will and testament, *donatio mortis causa*, or by the intestacy of any shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the person to whom such share is transmitted shall deposit in the office of the company a

4585

statement

R.S., 1952.

statement in writing signed by him, which shall declare the manner of such transmission, and he shall deposit therewith a duly certified copy or probate of such will and testament, or sufficient extracts therefrom, and such other documents and proofs as are necessary.

Transferee  
must com-  
ply.

(2) The person to whom the share is so transmitted as aforesaid, is not, without complying with this section, entitled to receive any part of the profits of the company, or to vote in respect of any such share as the holder thereof. R.S., c. 170, s. 85.

Company  
not bound  
to see to  
execution  
of trusts.

**88.** (1) The company is not bound to see to the execution of any trust, whether express, implied or constructive, to which any share or security issued by it is subject, whether or not the company has had notice of the trust; and it may treat the registered holder as the absolute owner of any such share or security, and is not bound to recognize any claim on the part of any other person whomsoever, with respect to any such share or security, or the dividend or interest payable thereon.

(2) Nothing in this section prevents a person equitably interested in any such share or security from procuring the intervention of the court to protect his rights. R.S., c. 170, s. 86.

Non-pay-  
ment of  
calls.

Forfeiture.

**89.** (1) Every shareholder who makes default in the payment of any call payable by him, together with the interest, if any, accrued thereon, for the space of two months after the time appointed for the payment thereof, shall forfeit to the company his shares in the company, and all the profit and benefit thereof.

Procedure.

(2) No advantage shall be taken of the forfeiture unless the shares are declared to be forfeited at a general meeting of the company, assembled at any time after such forfeiture has been incurred. R.S., c. 170, s. 87.

Effect of  
forfeiture.

**90.** Every shareholder so forfeiting is by such declaration of forfeiture relieved from liability in all actions, suits or prosecutions whatsoever that may be commenced or prosecuted against him for any breach of the contract existing between such shareholder and the other shareholders by reason of such shareholder having subscribed for or become the holder of the shares so forfeited. R.S., c. 170, s. 88.

Sale of  
forfeited  
shares.

**91.** (1) The directors may, subject as hereinafter provided, sell, either by public auction or private sale, any shares so declared to be forfeited, upon authority therefor

4586

having



having been first given by the shareholders, either at the general meeting at which such shares were declared to be forfeited, or at any subsequent general meeting.

(2) The directors shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture. Limitation.

(3) If the money produced by the sale of any such forfeited shares is more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and the sale of such shares, the surplus shall, on demand, be paid to the defaulter. Surplus proceeds to defaulter.

(4) If payment of such arrears of calls and interest and expenses is made before any share so forfeited and vested in the company is sold, such share reverts to the person to whom it belonged before such forfeiture, who is entitled thereto as if such calls had been duly paid. Payment of arrears before sale.

(5) Any shareholder may purchase any forfeited share so sold. R.S., c. 170, s. 89. Any shareholder may purchase.

**92.** (1) A certificate of the treasurer of the company that any share of the company has been declared forfeited for non-payment of any call, and that such share has been purchased by a purchaser therein named, together with the receipt of the treasurer of the company for the price of such share, constitutes a good title thereto. Certificate of treasurer to constitute title.

(2) Such certificate shall be by the treasurer registered in the name and with the place of abode and occupation of the purchaser, and shall be entered in the books to be kept by the company, and such purchaser shall thereupon be deemed to be the holder of such share. To be registered.

(3) The purchaser is not bound to see to the application of the purchase money. Purchase money.

(4) The title of the purchaser to such share is not affected by any irregularity in the proceedings in reference to such sale. R.S., c. 170, s. 90. Irregularity.

**93.** A certificate of the treasurer of the company that any share of the company has been declared forfeited for non-payment of any call or interest accrued thereon, and that such share has been purchased by a purchaser therein named is sufficient evidence of such facts. R.S., c. 170, s. 91. Certificate of forfeiture of share.

Shareholders may advance.

**94.** (1) Any shareholder who is willing to advance the amount of his shares, or any part of the money due upon his shares, beyond the sums actually called for, may pay the same to the company.

Interest.

(2) Upon the principal moneys so paid in advance, or so much thereof as, from time to time, exceeds the amount of the calls then made upon the shares in respect of which such advance is made, the company may pay such interest at the lawful rate of interest for the time being, as the shareholders, who pay such sum in advance, and the company agree upon.

No interest out of capital.

(3) Such interest shall not be paid out of the capital subscribed. R.S., c. 170, s. 92.

Limited liability.

**95.** Every shareholder is individually liable to the creditors of the company for the debts and liabilities of the company to an amount equal to the amount unpaid on the stock held by him, and until the whole amount of his stock has been paid up, but no action shall be instituted or maintained against any such shareholder in respect of his said liability until an execution at the suit of the creditor against the company has been returned unsatisfied in whole or in part. R.S., c. 170, s. 93.

Municipal corporations may take stock.

**96.** Municipal corporations in any province of Canada duly empowered so to do by the laws of the province may, subject to the limitations and restrictions in such laws prescribed, subscribe for any number of shares in the capital stock of the company. R.S., c. 170, s. 94.

Aliens.

**97.** All shareholders in the company, whether British subjects or aliens, or residents in Canada or elsewhere, have equal rights to hold stock in the company, and to vote on the same, and, subject as herein provided, are eligible to office in the company. R.S., c. 170, s. 95.

Shareholders have equal rights.

Record of shareholders.

**98.** A true and perfect account of the names and places of abode of the several shareholders shall be entered in a book, which shall be kept for that purpose, and which shall be open to the inspection of the shareholders. R.S., c. 170, s. 96.

### *Calls.*

How made.

**99.** (1) The directors may, from time to time, make such calls of money as they deem necessary upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, if the intervals between

4588

such



such calls, the notices of each call, and the other provisions of this Act and of the Special Act, in respect of calls, are duly observed and given.

(2) At least thirty days' notice shall be given of each call. Notice.

(3) No call shall exceed ten per cent of the amount of Amount. each share subscribed, unless otherwise provided in the Special Act.

(4) No call shall be made at a less interval than two Intervals. months from the previous call.

(5) A greater amount shall not be called in, in any one Annual year, than the amount prescribed in the Special Act. amount.

(6) Nothing herein contained prevents the directors Resolution. from making more than one call by one resolution of the Board. R.S., c. 170, s. 97.

**100.** (1) At least four weeks' notice of any call upon the Publication shareholders of the company shall be given by weekly of notice publication in the *Canada Gazette*, and in at least one newspaper published in the place where the head office of the company is situate.

(2) A copy of the *Canada Gazette* containing any such Evidence. notice is, on production thereof, sufficient evidence of such notice having been given. R.S., c. 170, s. 98.

**101.** Every shareholder is liable to pay the amount of Liability the calls so made, in respect of the shares held by him, to of share- the persons, and at the times and places, from time to time holder. appointed by the company or the directors. R.S., c. 170, s. 99.

**102.** If, on or before the day appointed for payment of Overdue any call, any shareholder does not pay the amount of such calls bear call, he is liable to pay interest upon such amount, at the interest. rate of five per cent per annum, from the day appointed for the payment thereof to the time of the actual payment. Five per R.S., c. 170, s. 100. cent.

**103.** If, at the time appointed for the payment of any Failure to call, any shareholder fails to pay the amount of the call, he pay call. may be sued therefor in any court of competent jurisdiction, and such amount is recoverable with lawful interest Suit. from the day on which the call became payable. R.S., c. 170, s. 101.

**104.** In any action or suit to recover any money due Pleadings. upon any call, it is not necessary to set forth the special matter, but it is sufficient to declare that the defendant is the holder of one share or more, stating the number of

shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more, upon one share or more, stating the number and amount of each of such calls. R.S., c. 170, s. 102.

### *Meetings of Shareholders.*

Annual  
meeting.

**105.** (1) A general meeting of the shareholders for the election of directors, and for the transaction of other business connected with or incident to the undertaking, to be called the annual meeting, shall be held annually on the day mentioned in the Special Act, or on such other day as the directors may determine.

Special  
meetings.

(2) Other general meetings, to be called special meetings, may be called at any time by the directors, or by shareholders representing at least one-fourth in value of the subscribed stock, if the directors, having been requested by such shareholders to convene a special meeting, fail, for twenty-one days thereafter, to call such meeting. R.S., c. 170, s. 103.

At head  
office.

**106.** All general meetings, whether annual or special, shall be held at the head office of the company. R.S., c. 170, s. 104.

Notice of  
meetings.

**107.** (1) At least four weeks' public notice of any meeting shall be given by advertisement published in the *Canada Gazette*, and in at least one newspaper published in the place where the head office is situate.

Place and  
day.

(2) Such notices shall specify the place and the day and the hour of meeting.

Publication.

(3) All such notices shall be published weekly.

Evidence  
of notice.

(4) A copy of the *Canada Gazette* containing such notice is, on production thereof, sufficient evidence of such notice having been given. R.S., c. 170, s. 105.

Business.

**108.** (1) Any business connected with or incident to the undertaking may be transacted at an annual meeting, except such business as is, by this Act or the Special Act, required to be transacted at a special meeting.

At special  
meeting.

(2) No special meeting shall enter upon any business not set forth in the notice upon which it is convened. R.S., c. 170, s. 106.

Voting.

**109.** The number of votes to which each shareholder is entitled, at any meeting of the shareholders, shall be in the proportion of the number of shares held by him, on which all calls due have been paid. R.S., c. 170, s. 107.

**110.** (1) Every shareholder, whether resident in Canada or elsewhere, may vote by proxy, if he sees fit, and if such proxy produces from his constituent an appointment in writing, in the words or to the effect following, that is to say:

I, \_\_\_\_\_ of \_\_\_\_\_, one of the \_\_\_\_\_ Form of  
shareholders of the \_\_\_\_\_, do hereby appoint \_\_\_\_\_ proxy.  
of \_\_\_\_\_, to be my  
proxy, and in my absence, to vote or give my assent to any  
business, matter or thing relating to the undertaking of the  
said \_\_\_\_\_ that is mentioned or proposed at any  
meeting of the shareholders of the said company, in such  
manner as he, the said \_\_\_\_\_ thinks proper.

In witness whereof, I have hereunto set my hand and  
seal the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_

(2) The votes by proxy are as valid as if the constituents Valid.  
had voted in person. R.S., c. 170, s. 108.

**111.** (1) Every matter or thing proposed or considered Majority  
at any meeting of the shareholders shall, except as otherwise vote.  
specially provided, be determined by the majority of votes  
and proxies then present and given.

(2) All decisions and acts of any such majority bind the Binding.  
company and shall be deemed the decisions and acts of the  
company. R.S., c. 170, s. 109.

**112.** All notices given by the secretary of the company Notices by  
by order of the directors shall be deemed notices by the secretary.  
directors of the company. R.S., c. 170, s. 110.

### *President and Directors.*

**113.** (1) A board of directors of the company, to manage Chosen at  
its affairs, the number of whom shall be stated in the Special annual  
Act, shall be chosen at the annual meeting. meeting.

(2) If such election is not held at the annual meeting, the Or special  
directors shall cause such election to be held at a special meeting.  
meeting duly called for that purpose, within as short a delay as possible after the annual meeting. meeting.

(3) No person shall vote at such special meeting except Voting.  
those who would have been entitled to vote if the election  
had been held at the annual meeting. R.S., c. 170, s. 111.

**114.** The mayor, warden, reeve or other head officer of Municipal  
any municipal corporation, in any province of Canada corporations to be  
holding stock in any company to the amount of twenty represented.  
thousand dollars or upwards, is *ex officio* one of the directors

of the company, in addition to the number of directors authorized by the Special Act, unless in such Special Act provision is made for the representation of such corporation on the directorate of such company. R.S., c. 170, s. 112.

Qualifications of directors.

**115.** (1) No person shall be a director unless he is a shareholder, owning twenty shares of stock, and has paid all calls due thereon, and is qualified to vote for directors at the election at which he is chosen.

Disability of officers, contractors and sureties.

(2) No person who holds any office, place or employment in the company, or who is concerned or interested in any contract under or with the company, or is surety for any contractor with the company, is capable of being chosen a director, or of holding the office of director.

Majority of directors British subjects.

(3) A majority of the directors shall be British subjects, unless the Governor in Council otherwise permits. R.S., c. 170, s. 113.

Term of office.

**116.** The directors appointed at the last election, or those appointed in their stead in case of vacancy, remain in office until their successors are appointed. R.S., c. 170, s. 114.

Vacancies in directorate.

**117.** Vacancies in the board of directors shall be filled in the manner prescribed by the by-laws. R.S., c. 170, s. 115.

How filled.

**118.** (1) In case of the death, absence or resignation of any of the directors, others may, unless otherwise prescribed by the by-laws, be appointed in their stead by the remaining directors.

If no quorum.

(2) In case such remaining directors do not constitute a quorum, the shareholders, at a special meeting to be called for that purpose, may, unless otherwise prescribed in the by-laws, elect such other directors.

If not filled.

(3) If such appointment or election is not made, such death, absence or resignation shall not invalidate the acts of the remaining directors. R.S., c. 170, s. 116.

President and vice-president.

**119.** (1) The directors shall, at their first or some other meeting after their election, elect one of their number to be the president of the company; and they may, in like manner, elect one or more vice-presidents.

Tenure.

(2) The president holds his office until he ceases to be a director, or until another president has been elected in his stead, and unless otherwise provided by by-law, shall always, when present, be the chairman of and preside at all meetings of the directors.



(3) In the absence of the president the vice-president, or one of the vice-presidents, according to such priority as may be prescribed by by-law or determined by the directors, shall act as chairman. Duties.

(4) In the absence of the president and the vice-president, or vice-presidents. the directors at any meeting at which not less than a quorum are present, are competent to elect a chairman from among their number to preside at such meeting. R.S., c. 170, s. 117. Chairman.

**120.** (1) A majority of the directors constitute a quorum. Quorum.

(2) The directors at any meeting regularly held, at which not less than a quorum are present, are competent to exercise all or any of the powers vested in the directors; and the act of a majority of a quorum of the directors present at any such meeting shall be deemed the act of the directors. R.S., c. 170, s. 118. Acts of quorum binding.

**121.** No director has more than one vote, except the chairman, who, in case of a division of equal numbers, has the casting vote. R.S., c. 170, s. 119. Votes of directors.  
Casting vote.

**122.** The directors are subject to the examination and control of the shareholders at their annual meetings, and are subject to all by-laws of the company, and to the orders and directions from time to time made or given at the annual or special meetings if such orders and directions are not contrary to or inconsistent with any express direction or provision of this Act or of the Special Act. R.S., c. 170, s. 120. Directors subject to shareholders and by-laws.

**123.** No person who is a director of the company shall enter into, or be directly or indirectly, for his own use and benefit, interested in any contract with the company other than a contract that relates to the purchase of land necessary for the railway, nor shall any such person be or become a partner of or surety for any contractor with the company. R.S., c. 170, s. 121. Directors not to contract with company.

**124.** (1) The directors may make by-laws or pass resolutions, from time to time, not inconsistent with law, for Directors may make by-laws.

(a) the management and disposition of the stock, property, business and affairs of the company;

(b) the appointment of all officers, servants and artificers, and the prescribing of their respective duties and the compensation to be made therefor; and



(c) the retirement of such of said officers and servants, on such terms as to an annual allowance or otherwise, as in each case the directors, in the interest of the company's service, and under the circumstances, consider just and reasonable.

By-laws for election of officers.

(2) The directors may also, from time to time, make by-laws or pass resolutions for the election or appointment of officers of the company, who need not be directors, as vice-presidents of the company, and may by any such by-law or resolution specify the manner of such election or appointment and define the powers, duties, qualifications and term of office of such vice-presidents, each of whom has and may exercise, subject to the limitations set forth in any such by-law or resolution, all the powers of a vice-president elected by the directors pursuant to the provisions of this Act.

Evidence.

(3) A copy of any such by-law or resolution certified as correct by the president, secretary or other executive officer of the company and bearing the seal of the company is evidence thereof. R.S., c. 170, s. 122.

Appointment of officers.  
Security.

**125.** (1) The directors shall, from time to time, appoint such officers as they deem requisite, and shall take such sufficient security as they think proper from the managers and officers, for the time being, for the safe-keeping and accounting for by them respectively of the moneys raised by virtue of this Act and the Special Act, and for the faithful execution of their duties.

By bond or guarantee.

(2) Such security may, as the directors deem expedient, be by bond or by the guarantee of any society or joint stock company incorporated and empowered to grant guarantees, bonds, covenants or policies for the integrity and faithful accounting of persons occupying positions of trust, or for other like purposes. R.S., c. 170, s. 123.

Vice-president, powers of.

**126.** (1) In the case of the absence or illness of the president, the vice-president or one of the vice-presidents has all the rights and powers of the president, and may sign all debentures and other instruments, and perform all acts that, by the regulations and by-laws of the company, or by the Special Act, are required to be signed, performed and done by the president.

Empowering a director to act.

(2) In the absence or illness of the president and the vice-president, or vice-presidents, any director of the company acting under the express authority of the board of directors may while so acting exercise the rights and powers of the president or vice-president as hereinbefore set forth.

(3) The directors may, at any meeting of the directors, require the secretary of the company to enter such absence or illness among the proceedings of such meeting. Entry in minutes.

(4) A certificate of any such absence or illness signed by the secretary of the company shall be delivered to any person requiring the same on payment to the treasurer of one dollar, and such certificate is *prima facie* evidence of the absence or illness therein certified. R.S., c. 170, s. 124. Evidence of absence or illness.

**127.** Copies of the minutes of proceedings and resolutions of the shareholders of the company, at any annual or special meeting, and of the minutes of proceedings and resolutions of the directors, at their meetings, extracted from the minute book, kept by the secretary of the company, and by him certified to be true copies extracted from such minute book, when sealed with the company's seal, are, without proof of the signature of such secretary, evidence of such proceedings and resolutions. R.S., c. 170, s. 125. Copies of minutes to be evidence.

**128.** The directors shall cause to be kept, and, annually, on the 31st day of December, to be made up and balanced, a true, exact and particular account of the moneys collected and received by the company, or by the directors or managers thereof, or otherwise for the use of the company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the company or the directors. R.S., c. 170, s. 126. Accounts.

### *Dividends and Interest.*

**129.** Dividends, at and after the rate of so much per share upon the several shares held by the shareholders in the stock of the company, may, from time to time, be declared and paid by the directors out of the net profits of the undertaking. R.S., c. 170, s. 127. Declaration of dividends.

**130.** (1) The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve fund, to meet contingencies, or for equalizing dividends, or for repairing, maintaining, renewing or extending the railway or any portion thereof, and shall submit their action in regard to such reserve fund to the shareholders at a general meeting for their approval. Reserve fund.

(2) The directors may invest the sum so set apart as a reserve fund in such securities, not inconsistent with this or the Special Act, as they select. R.S., c. 170, s. 128. How invested.

No dividend out of capital.

- 131.** (1) Subject to subsection (2), no dividend shall be
- (a) declared whereby the capital of the company is in any degree reduced or impaired,
  - (b) paid out of such capital, or
  - (c) paid in respect of any share, after a day appointed for payment of any call for money in respect thereof, until such call has been paid.

Or if call unpaid.

Interest.

(2) The directors may in their discretion, until the railway is completed and opened to the public, pay interest at any rate, not exceeding five per cent per annum, on all sums actually paid in cash in respect of the shares, from the respective days on which the same have been paid, and such interest shall accrue and be paid at such times and places as the directors appoint for that purpose. R.S., c. 170, s. 129.

No interest if shareholder in arrears.

**132.** No interest shall accrue to any shareholder in respect of any share upon which any call is in arrear, or in respect of any other share held by such shareholder while such call remains unpaid. R.S., c. 170, s. 130.

Arrears deducted from dividend.

**133.** The directors may deduct, from any dividend payable to any shareholder, all or any such sum or sums of money as are due from him to the company on account of any call or otherwise. R.S., c. 170, s. 131.

### *Bonds, Mortgages and Borrowing Powers.*

Authorized.

Procedure.

**134.** (1) Subject to the provisions of this Act and of the Special Act, the directors of the company may, when thereunto authorized by the Special Act, issue bonds, debentures, perpetual or terminable debenture stock, or other securities, if duly empowered in that behalf by the shareholders, at any special meeting called for the purpose by notice in the manner provided by this Act, or at any annual meeting in case like notice of intention to apply for such authority at such annual meeting has been given, at which meeting, whether annual or special, shareholders representing at least two-thirds in value of the subscribed stock of the company and who have paid all calls due thereon, are present in person, or represented by proxy.

Securities, how executed.  
Bonds.

- (2) Such securities,
- (a) if in the form of bonds, may be signed by the president, or the vice-president or one of the vice-presidents, or a director, and countersigned by the secretary or an assistant or local secretary of the company; and any coupons attached to such bonds shall bear



the signature of the treasurer or secretary of the company; the signature of the president on the bonds, and the signature of the treasurer or secretary on the coupons, may be engraved, lithographed or otherwise mechanically reproduced *facsimile* of such signatures respectively; and such reproduced and all other signatures of the officers aforesaid are, for all purposes, valid and binding upon the company, notwithstanding that at the date of the issue or certification of the bonds or coupons the persons whose signatures so appear are not the president, vice-president, director, treasurer, secretary, or assistant or local secretary, of the company as the case may be;

(b) if in the form of debenture stock, may be signed in the same way as herein provided for the signature of bonds, or may be signed by the secretary or an assistant or local secretary of the company and countersigned by the registrar or an assistant or local registrar of the stock for the time being, or such other officers as the directors may designate; and

Debenture stock.

(c) if in any form other than bonds or debenture stock, may be signed in the same way as herein provided for the signature of bonds.

Other securities.

(3) Such securities may be made payable at such times and in such manner and at such place or places in Canada or elsewhere, and may bear such rate of interest, not exceeding six per cent per annum, as the directors think proper.

When and where payable. Interest.

(4) The directors may, for the purpose of raising money for prosecuting the undertaking, issue, and sell or pledge, all or any of the said securities, at the best price, and upon the best terms and conditions, that at the time they may be able to obtain.

Terms of sale.

(5) The power of issuing securities conferred upon the company by this Act, or under the Special Act, shall not be construed as being exhausted by any issue, and such power may be exercised from time to time, but the limit to the amount of securities fixed in the Special Act shall not be exceeded. R.S., c. 170, s. 132.

Extent of borrowing power.

**135.** (1) When securities issued under section 134 have been deposited or pledged by the company, as security for a loan or for advances made to it, and such loan or advances have been paid off and such deposit or pledge redeemed, such securities shall not be deemed to have been paid off or to have become extinguished, but shall be deemed to be

Securities pledged for loans or advances.

still alive, and the company may reissue them, or may cancel them and issue other securities in lieu thereof; in such event the person to whom such issue or reissue is made has the same rights and priorities as if the securities had not previously been issued.

When not  
deemed  
paid off.

(2) Where a company has deposited any of its securities to secure advances from time to time on current account, such securities shall not be deemed to have been paid off or extinguished by reason only of the account of the company ceasing to be in debit while the securities remain so deposited.

Reissue not  
a new  
security.

(3) The issue or reissue of a security under this section shall not be treated as the issue of a new security for the purpose of any provision limiting the number or amount of the securities to be issued.

To be  
retroactive.

(4) This section is retrospective in its operation, and applies to securities heretofore as well as to securities hereafter issued, deposited or pledged, and to past as well as to future transactions relating to or affecting the same, but nothing therein prejudices

Pending  
proceedings  
not  
affected.

(a) the operation of any judgment or order of a court of competent jurisdiction pronounced or made in any legal proceedings that were pending on the 19th day of May, 1909, as between the parties to the proceedings, in which judgment was pronounced or the order made, and any appeal from any such judgment or order shall be decided as if this section had not been enacted, or

Issue of  
securities in  
place of  
those paid  
off.

(b) any power to issue securities in the place of any securities paid off, or otherwise satisfied or extinguished, reserved to a company by the securities themselves, or by any mortgage or trust deed securing them. R.S., c. 170, s. 133.

Provincial  
railways.

**136.** No power to issue or dispose of any such securities conferred by any Special Act of a provincial legislature shall, if such railway is thereafter brought under the legislative authority of the Parliament of Canada, be subsequently exercised without the sanction of the Governor in Council. R.S., c. 170, s. 134.

Mortgage  
deeds of  
trust.

**137.** (1) The company may secure such securities by one or more deeds of trust by way of mortgage or charge creating such mortgages, charges and encumbrances upon the whole of such property, assets, rents and revenues of the company, present or future, or both, as are described therein; but such property, assets, rents and revenues are subject, in the first instance, to the payment of any penalty then or

4598

thereafter



thereafter imposed upon the company for non-compliance with the requirements of this Act, and next, to the payment of the working expenditure of the railway.

(2) By such a mortgage deed the company may grant to the holders of such securities or the trustee or trustees named in such mortgage deed all and every the powers, rights and remedies granted by this Act in respect of the said securities, and all other powers, rights and remedies, not inconsistent with this Act, or may restrict the said holders, or trustee or trustees, in the exercise of any power, privilege or remedy granted by this Act, as the case may be; and all the powers, rights, and remedies, so provided for in such mortgage deed, are valid and binding and available to the said holders and trustee or trustees in manner and form as therein provided. R.S., c. 170, s. 135.

Powers which may be granted in mortgage.

**138.** (1) The company may except from the operation of any such mortgage any assets, property, rents or revenue of the company, and may declare and provide therein that such mortgage shall only apply to and affect certain sections or portions of the railway or property of the company.

Property excepted from mortgage.

(2) Where any such exception is made, the company shall in such mortgage deed expressly specify and describe, with sufficient particularity to identify the same, the assets, property, rents or revenue of the company, or the sections or portions of the railway not intended to be included therein or conveyed thereby. R.S., c. 170, s. 136.

Special description.

**139.** Every such mortgage deed, and every assignment thereof, or other instrument in any way affecting such mortgage or security, shall be deposited in the office of the Secretary of State of Canada, and notice of such deposit shall forthwith be given in the *Canada Gazette*. R.S., c. 170, s. 137.

Deposit with Secretary of State. Notice.

**140.** Where the provisions of section 139 have been complied with, or where by any Act of the Parliament of Canada heretofore or hereafter passed, provision was or is made for the deposit in the office of the Secretary of State of Canada of any mortgage or mortgage deed given to secure the payment of bonds or other securities issued by the company and the provisions with regard to such deposit have been duly complied with, it is hereby declared and enacted that it was and is unnecessary for any purpose that such mortgage, or any assignment thereof, or any other instrument in any way affecting it, should have been or should be otherwise deposited, registered or filed under the provisions of any law respecting the deposit, registration or filing of instruments

Other filing, deposit or registration not necessary.

affecting real or personal property, but if such Act expressly required or requires some additional or other deposit, registration or filing, nothing herein contained shall be taken or held to dispense therewith or to waive any non-compliance with such requirement. R.S., c. 170, s. 138.

Copy of  
instruments  
deposited,  
evidence of.

**141.** A copy of any mortgage deed securing any bonds, debentures, or other securities issued under the authority of this Act and the Special Act, and of any assignment thereof, or other instrument in any way affecting such mortgage or security, deposited in the office of the Secretary of State of Canada, purporting to be certified to be a true copy by the Secretary of State, or by the Deputy Registrar General of Canada, is *prima facie* evidence of the original, without proof of the signature of such official. R.S., c. 170, s. 139.

Ranking of  
securities.

**142.** (1) Subject however to the payment of the penalties and the working expenditure of the railway as hereinbefore provided, the securities so authorized and the mortgage deeds respectively securing the same rank against the company, and upon the franchise, undertaking, tolls and income, rents and revenues, and the real and personal property thereof, according to the priorities, if any, established by such mortgage deeds.

Holder a  
mortgagee.

(2) Each holder of the said securities shall be deemed to be a mortgagee or encumbrancee upon the mortgaged premises *pro rata* with all other holders of the same issue and in accordance with and having regard to the priorities, if any, so established; but no proceedings authorized by law, or by this Act, shall be taken to enforce payment of the said securities or of the interest thereon except through the trustee or trustees appointed by or under such mortgage deed or deeds. R.S., c. 170, s. 140.

No pro-  
ceedings  
except  
through  
trustee.

Default of  
company.

**143.** If the company makes default in paying the principal of or interest on any of such securities at the time when such principal or interest, by the terms of the securities, becomes due and payable, then at the next annual general meeting of the company, and at all subsequent meetings, all holders of such securities so being and remaining in default, have and possess, in respect thereof, subject to section 144, the same rights, privileges and qualifications for being elected directors, and for voting at general meetings, as would attach to them as shareholders, if they held fully paid-up shares of the company to a corresponding amount. R.S., c. 170, s. 141.

Rights of  
security  
holders.

**144.** (1) The rights given by section 143 shall not be exercised by any such holder, unless it is so provided by the mortgage deed, nor unless the security in respect of which he claims to exercise such rights has been registered in his name, in the same manner as the shares of the company are registered, at least ten days before he attempts to exercise the right of voting thereon. Limitations affecting such rights.

(2) The company is bound on demand to register such securities, and thereafter any transfers thereof, in the same manner as shares or transfers of shares. R.S., c. 170, s. 142. Registration.

**145.** The exercise of the rights so given as provided by sections 143 and 144 does not take away, limit or restrain any other of the rights or remedies to which the holders of the said securities are entitled under the provisions of such mortgage deed. R.S., c. 170, s. 143. Other rights not affected.

**146.** (1) All such securities may be made payable to bearer, and are, in that case, transferable by delivery until registration thereof, as hereinbefore provided. Transfer by delivery.

(2) While so registered, they are transferable by written transfers, registered in the manner prescribed in the mortgage deed or deeds. R.S., c. 170, s. 144. Or writing if registered.

**147.** (1) The company may, for the purposes of the undertaking, borrow money by overdraft or upon promissory note, warehouse receipt, bills of exchange, or otherwise upon the credit of the company, and become party to promissory notes and bills of exchange. Power to borrow by overdraft, etc.

(2) Every such note or bill made, drawn, accepted or endorsed by the president or vice-president or one of the vice-presidents of the company, or other officer authorized by the by-laws of the company or by resolution of the directors, and countersigned by the secretary, or assistant or local secretary, or treasurer of the company, is binding on the company, and shall be presumed to have been made, drawn, accepted or endorsed with proper authority, until the contrary is shown. Note or bill of company, how made.

(3) It is not necessary in any case to have the seal of the company affixed to any such promissory note or bill of exchange. No seal necessary.

(4) Nothing in this section shall be construed to authorize the company to issue any note or bill payable to bearer, or intended to be circulated as money, or as the note or bill of a bank. No bill payable to bearer.



Officers not  
personally  
liable.

(5) Neither the president, vice-president or secretary, nor any other officer of the company so authorized as aforesaid, is individually responsible for any such promissory note or bill of exchange made, drawn, accepted or endorsed, or countersigned by him, unless such promissory note or bill of exchange has been issued without proper authority. R.S., c. 170, s. 145.

### *Contracts Respecting Rolling Stock.*

Deposit of  
contract  
evidencing  
lease, etc.,  
of rolling  
stock.

**148.** (1) Any contract evidencing the lease, conditional sale or bailment of rolling stock to a company shall be in writing, duly executed by the parties thereto, and the same or a copy thereof may be deposited in the office of the Secretary of State of Canada, within twenty-one days from the execution thereof, and no contract so deposited need be otherwise deposited, registered or filed under the provisions of any law respecting the deposit, registration or filing of instruments affecting real or personal property, and upon the due execution and deposit of any such lease, conditional sale or bailment of rolling stock as aforesaid, the same is valid against all persons.

Notice of  
deposit.

(2) Notice of such deposit shall forthwith thereafter be given in the *Canada Gazette*. R.S., c. 170, s. 146.

### *Purchase of Railway Securities.*

Company  
not to pur-  
chase rail-  
way stock.

**149.** Except as in this Act or the Special Act otherwise provided, no company shall, either directly or indirectly, employ any of its funds in the purchase of its own stock, or in the acquisition of any shares, bonds or other securities, issued by any other railway company, or in the purchase or acquisition of any interest in any such stock, shares, bonds or other securities. R.S., c. 170, s. 147.

### *Disposing of Lands Obtained as Subsidy, etc.*

Company  
may dis-  
pose of  
lands  
acquired  
from  
Crown.

**150.** (1) Any company that has obtained from the Crown, by way of subsidy or otherwise, in respect of the construction or operation of its railway, a right to any land or to an interest in land, has, and from the time of obtaining such right has had, as incident to the exercise of its corporate powers, authority to acquire, sell or otherwise dispose of the same or any part thereof.

May convey  
right to  
another  
company.

(2) Such company may convey such right or interest, or any part thereof, to any other company that has entered into any undertaking for the construction or operation, in whole or in part, of the railway in respect of which such land or interest in land was given; and thereafter such other

company has, in respect of such land or interest in land, the same authority as that of the company that has so conveyed it. R.S., c. 170, s. 148.

**151.** If any lands have been given to the company by any corporation or person, as aid towards, or as consideration in whole or in part for the construction or operation of the company's railway, either generally or with respect to the adoption of any particular route, or on any other account, the authority of the company, and of any other company to which it may convey its right in any of the said lands, is the same as if such lands had been obtained by the company from the Crown as aforesaid. R.S., c. 170, s. 149.

Lands given to company by any person.

*Purchase of Railway by Person without Corporate Power to Operate.*

**152.** (1) If any railway, or any section of any railway, is sold under the provisions of any deed or mortgage, or at the instance of the holders of any mortgage, bonds or debentures, for the payment of which any charge has been created thereon, or under any other lawful proceeding, and is purchased by any person not having corporate power to hold and operate the same, the purchaser shall not run or operate such railway until authority therefor has been obtained as provided in this section.

Purchaser to obtain authority to operate.

(2) The purchaser shall transmit to the Minister an application in writing stating the fact of such purchase, describing the termini and lines of route of the railway purchased, specifying the Special Act under which the same was constructed and operated, and requesting authority from the Minister to run and operate the railway, and shall with such application transmit a copy of any writing preliminary to the conveyance of such railway, made as evidence of such sale, and also a duplicate or authenticated copy of the deed of conveyance of such railway, and such further details and information as the Minister may require.

Application to Minister.

(3) Upon any such application, the Minister may, if he is satisfied therewith, grant an order authorizing the purchaser to run and operate the railway purchased until the end of the then next session of the Parliament of Canada, subject to such terms and conditions as the Minister may deem expedient.

Minister may authorize.

(4) The purchaser is thereupon authorized for such period only and subject to such order, to run and operate such railway, and, subject to the other provisions of this

Purchaser thereupon authorized to operate railway.



Act, to take and receive such tolls in respect of traffic carried thereon as the company previously owning and operating the same was authorized to take, and the purchaser is also subject to the terms and conditions of the Special Act of the said company, in so far as the same can be made applicable.

Must apply to Parliament.

(5) The purchaser shall apply to the Parliament of Canada at the next following session thereof after the granting of such order by the Minister for an Act of incorporation, or other legislative authority, to hold, run and operate the railway.

One extension allowed.

(6) If such application is made to Parliament and is unsuccessful, the Minister may extend the order to run and operate such railway until the end of the then next following session of Parliament, and no longer.

Closing of railway.

(7) If during such extended period the purchaser does not obtain such an Act of incorporation or other legislative authority, such railway shall be closed or otherwise dealt with by the Minister, as may be determined by the Governor in Council.

Provision for temporary operation.

(8) Notwithstanding anything herein contained the purchaser may, pending the obtaining of authority from the Minister, run and operate the railway for a period not exceeding fifteen days subject to the provisions of this Act and to the terms and conditions of the Special Act in so far as the same can be made applicable. R.S., c. 170, s. 150.

### *Agreements for Sale, Lease and Amalgamation.*

Agreement for sale, lease or amalgamation of railway.

**153.** (1) Where the company is authorized by any Special Act of the Parliament of Canada to enter into an agreement with any other company, whether within the legislative authority of the Parliament of Canada or not, for selling, conveying or leasing to such company the railway and undertaking of the company, in whole or in part, or for purchasing or leasing from such company the railway and undertaking of such company, in whole or in part, or for amalgamation, such agreement shall be first approved by two-thirds of the votes of the shareholders of each company party thereto, at an annual general meeting, or at a special general meeting, of each company, called for the purpose of considering such agreement, at each of which meetings shareholders representing at least two-thirds in value of the capital stock of each company are present or represented by proxy.

Approval of shareholders.

Board to recommend sanction.

(2) Upon such agreement being so approved, and duly executed, it shall be submitted to the Board with an application for a recommendation to the Governor in Council for the sanction thereof.

(3) Notice of the proposed application for such recommendation shall be published in the *Canada Gazette*, for at least one month prior to the time, to be stated therein, for the making of such application, and also, unless the Board otherwise orders, for a like period in one newspaper in each of the counties or electoral districts through which the railway to be sold, leased or amalgamated, runs, in which a newspaper is published.

Notice in  
*Canada  
Gazette.*

Newspapers.

(4) Upon such notice being given the Board shall grant or refuse such application, and upon granting the same shall make a recommendation to the Governor in Council for the sanction of such agreement.

Action of  
Board.

(5) Upon such agreement being sanctioned by the Governor in Council, a duplicate original of such agreement shall be filed in the office of the Secretary of State of Canada; and thereupon such agreement shall come into force and effect and notice thereof shall be forthwith given in the *Canada Gazette*.

Proceedings  
upon sanc-  
tion.

Notice.

(6) The production of the *Canada Gazette* containing the notice mentioned in subsection (5) is *prima facie* evidence that the requirements of this section have been complied with.

Evidence.

(7) Whenever the agreement does not involve any sale or amalgamation and may be terminated by either company on giving a notice not exceeding twelve months, the Board may, notwithstanding anything in this section, by order or regulation, exempt the company from complying with any of the foregoing conditions with respect to any such agreement. R.S., c. 170, s. 151.

Exemptions  
in certain  
cases.

**154.** Upon any agreement for amalgamation coming into effect, as provided in section 153, the companies, parties to such agreement, shall, subject to the provisions of this Act and the Special Act authorizing such agreement to be entered into, be deemed to be amalgamated, and shall form one company, under the name and upon the terms and conditions in such agreement provided; and the amalgamated company possesses and is vested with all the railways and undertakings, and all other the powers, rights, privileges, franchises, assets, effects, and properties, real, personal and mixed, belonging to, possessed by, or vested in the companies, parties to such agreement, or to which they, or any or either of them, may be or become entitled; and is liable for all claims, demands, rights, securities, causes of action, complaints, debts, obligations, works, contracts, agreements, or duties, to as full an extent as any or either of such companies was, at or before the time when the amalgamation agreement came into effect. R.S., c. 170, s. 152.

Amalgama-  
tion.

Powers, etc.  
of amalga-  
mated  
company.

Saving of  
rights and  
claims.

**155.** (1) Notwithstanding anything in any agreement made or sanctioned under the provisions of sections 153 and 154, every act, matter or thing done, effected or confirmed under or by virtue of this Act, or the Special Act, before the date of the coming into effect of such agreement, is as valid as if such agreement had never come into effect; and such agreement is subject and without prejudice to every such act; matter or thing, and to all rights, liabilities, claims and demands, present or future, that would be incident to, or consequent upon such act, matter or thing if such agreement had never come into effect.

Amalga-  
mated com-  
pany in  
place of  
former com-  
panies.

(2) In the case of an agreement for amalgamation, as to all acts, matters and things so done, effected or confirmed, and as to all such rights, liabilities, claims and demands, the amalgamated company for all purposes stands in the place of and represents the companies who are parties thereto and the generality of the provisions of this section shall not be deemed to be restricted by any Special Act, unless this section is expressly referred to in such Special Act, and expressly limited or restricted thereby. R.S., c. 170, s. 153.

*Agreements for Interchange of Traffic and Running Rights.*

Directors  
may make  
traffic  
agreements.

**156.** (1) The directors of the company may, at any time, make and enter into any agreement or arrangement, not inconsistent with the provisions of this or the Special Act, with any other company, either in Canada or elsewhere, for the interchange of traffic between their railways or vessels, and for the division and apportionment of tolls in respect of such traffic.

And agree-  
ments for:

(2) The directors may also make and enter into any agreement or arrangements, not inconsistent with the provisions of this or the Special Act, for any term not exceeding twenty-one years

Running  
powers;

(a) for the running of the trains of one company over the tracks of another company;

Division of  
tolls;

(b) for the division and apportionment of tolls in respect of such traffic;

Manage-  
ment and  
working;

(c) generally in relation to the management and working of the railways, or any of them, or any part thereof, and of any railway or railways in connection therewith; and

Joint com-  
mittee.

(d) to provide, either by proxy or otherwise, for the appointment of a joint committee for the better carrying into effect of any such agreement or arrangement, with such powers and functions as are considered necessary or expedient;



subject to the like consent of the shareholders, the sanction of the Governor in Council upon the recommendation of the Board, application, notices and filing, as hereinbefore provided with respect to amalgamation agreements; publication of notices in the *Canada Gazette* is sufficient notice, and the duplicate original of such agreement or arrangement shall, upon being sanctioned, be filed with the Board. Conditions.

(3) The Board may, notwithstanding anything in this section, by order or regulation, exempt the company from complying with any of the foregoing conditions, with respect to any such agreement or arrangement made or entered into by the company for the transaction of the usual and ordinary business of the company, and where such consent of the shareholders is deemed by the Board to be unnecessary. Board may exempt from conditions.

(4) Neither the making of any such arrangement or agreement, nor anything therein contained, nor any approval thereof, restricts, limits, or affects any power by this Act vested in the Board, or relieves the companies from complying with the provisions of this Act. Saving. R.S., c. 170, s. 154.

### *Insolvent Companies.*

**157.** (1) Where a company is unable to meet its engagements with its creditors, the directors may prepare a scheme of arrangement between the company and its creditors, and may file it in the Exchequer Court. Scheme may be filed in Exchequer Court.

(2) Such scheme of arrangement may or may not include provisions for settling and defining any rights of shareholders of the company as among themselves, and for the raising if necessary of additional share and loan capital. May affect shareholders and capital.

(3) There shall be filed with such scheme of arrangement

- (a) a declaration in writing under the common seal of the company to the effect that the company is unable to meet its engagements with its creditors, and Declaration to be filed.
- (b) an affidavit made by the president and directors of the company, or by a majority of them, that such declaration is true to the best of their respective judgments and beliefs. Affidavit.

(4) After the filing of the scheme, the Exchequer Court may, on the application of the company, on summons or motion in a summary way, restrain any action against the company on such terms as the Exchequer Court thinks fit. Court may restrain action.

(5) Notice of the filing of the scheme shall be published in the *Canada Gazette*. Notice of filing.

No execution without leave.

(6) After such publication of notice, no execution, attachment, or other process against the property of the company is available without leave of the Exchequer Court, to be obtained on summons or motion in a summary way. R.S., c. 170, s. 155.

Assent to scheme:  
By bond-holders;

**158.** (1) The scheme shall be deemed to be assented to  
(a) by the holders of mortgages or bonds issued under the authority of this or any Special Act relating to the company, when it is assented to in writing by three-fourths in value of the holders of such mortgages or bonds;

By debenture holders;

(b) by the holders of debenture stock of the company, when it is assented to in writing by three-fourths in value of the holders of such stock;

By charge holders;

(c) by the holders of any rent charge, or other payment, charged on the receipts of or payable by the company in consideration of the purchase of the undertaking of another company, when it is assented to in writing by three-fourths in value of such holders;

By preference shareholders;

(d) by the guaranteed or preference shareholders of the company, when it is assented to in writing by three-fourths in value of such shareholders, if there is only one class of such shareholders, or three-fourths in value of each class, if there are more classes of such shareholders than one; and

By ordinary shareholders.

(e) by the ordinary shareholders of the company, when it is assented to by a special meeting of the company called for that purpose.

Assent of leasing company;

(2) Where the company is lessee of a railway, the scheme shall be deemed to be assented to by the leasing company when it is assented to

By bond-holders;

(a) in writing, by three-fourths in value of the holders of mortgages, bonds and debenture stock of the leasing company;

By preference shareholders;

(b) in writing, by three-fourths in value of the guaranteed or preference shareholders of the leasing company, if there is only one such class, and by three-fourths in value of each class, if there are more classes than one of such shareholders; and

By ordinary shareholders.

(c) by the ordinary shareholders of the leasing company, at a special meeting of that company called for that purpose.

No assent required from class not interested.

(3) The assent to the scheme of any class of holders of mortgages, bonds or debenture stock, or of any class of holders of a rent charge or other payment as aforesaid, or of any class of guaranteed or preference shareholders, or of



a leasing company, is not requisite in case the scheme does not prejudicially affect any right or interest of such class or company. R.S., c. 170, s. 156.

**159.** (1) If, at any time within three months after the filing of the scheme, or within such extended time as the Exchequer Court, from time to time, thinks fit to allow, the directors of the company consider the scheme to be assented to, as by this Act required, they may apply to the Exchequer Court by petition in a summary way for confirmation of the scheme. Application for confirmation of scheme.

(2) Notice of any such application shall be published in the *Canada Gazette*. Notice of application.

(3) The Court, after hearing the directors, and any creditors, shareholders or other persons whom it thinks entitled to be heard on the application, may confirm the scheme, if satisfied that the scheme has been assented to, as required by this Act, within three months after the filing of it, or within such extended time, if any, as the Court has allowed, and that no sufficient objection to the scheme has been established. Confirmation of Court.

(4) The scheme when confirmed shall be enrolled in the Exchequer Court, and thenceforth it is binding and effectual to all intents, and the provisions thereof, against and in favour of the company and all persons, have the like effect as if they had been enacted by Parliament. Enrolment in Court.

(5) Notice of the confirmation and enrolment of the scheme shall be published in the *Canada Gazette*. R.S., c. 170, s. 157. Notice thereof.

**160.** The Judges of the Exchequer Court may make general rules for the regulation of the practice and procedure of the Court under sections 157, 158 and 159, which rules have force and effect when they are approved by the Governor in Council. R.S., c. 170, s. 158. Rules of practice.

**161.** The company shall at all times keep at its principal or head office printed copies of the scheme when confirmed and enrolled, and shall sell such copies to all persons desiring to buy them at a reasonable price, not exceeding ten cents for each copy. R.S., c. 170, s. 159. Copies of the scheme to be kept for sale.

*Sale of Subsidized Railways not kept in Repair.*

**162.** (1) Whenever it is made to appear to the Minister that any railway owned by a company incorporated by the Parliament of Canada, the construction of which has been aided by a subsidy from the Government of Canada, cannot by reason of the condition of such railway or of its Subsidized railways must be in safe and efficient condition.

4609

equipment

R.S., 1952.

Application  
to Board.

equipment be safely and efficiently operated, the Minister may apply to the Board for an order that the said railway, or its equipment, or both, shall be put in a safe and efficient condition, which order the Board is hereby authorized to make after such notice to the president or manager of the company and the trustee of the bondholders, if any, as to the Board seems reasonable, and the Board may, by order, direct what repairs, improvements or additions shall be made to the said railway, or equipment, or both, and within what times the same shall be undertaken and completed respectively.

On failure  
of company  
to comply  
with order,  
a lien may  
be created.

(2) If the company fails to comply with such order of the Board, the Governor in Council may, upon the recommendation of the Minister, approve of such order, and direct that a copy of such order and of the order of the Governor in Council approving thereof, certified by the Secretary of the Board and the Clerk of the Privy Council respectively, shall be filed by the Minister in the office of the Registrar of Deeds of each county through which such railway runs, and upon such orders being so filed there is, *ipso facto*, created a first lien or mortgage upon the said railway and its equipment in favour of Her Majesty for the amount of the said subsidy, which immediately thereupon becomes due and payable to Her Majesty.

Enforce-  
ment of  
lien.

(3) Such lien may be enforced by Her Majesty in the same manner and by the like proceedings as any other lien upon property may be enforced by Her Majesty in the Exchequer Court of Canada.

Court  
may order  
sale.

(4) The said Court may order such railway and its equipment to be sold to satisfy such lien, and pending such lien may appoint a receiver to manage and operate such railway.

Moneys  
realized  
from sale  
to be  
applied by  
the  
Minister  
towards  
repair, etc.  
of such  
railway.

(5) Any moneys realized from such sale may, with the consent of the purchaser, be applied by the Minister under the direction of the Chief Engineer of Government Railways towards the repair and improvement of such railway and equipment so far as the same may be deemed necessary by the Minister, and any moneys so realized, and not in the opinion of the Minister required for such repairs and improvements, may be paid to the company owning the railway at the time of the sale, or to the trustee for the holders of any outstanding bonds or other securities secured by mortgage or otherwise upon such railway. R.S., c. 170, s. 160.

POWERS—CONSTRUCTION OF RAILWAYS.

*Limitation of Time for Construction.*

**163.** If the construction of the railway is not commenced and fifteen per cent of the amount of the capital stock is not expended thereon in survey, purchase of right of way, and actual construction work, or, in the case of a branch or extension of the railway, if fifteen per cent of the bond issue authorized therefor is not expended thereon in actual construction work, within two years after the passing of the Act authorizing the construction of such railway, branch, or extension, as the case may be, or, where the Parliament of Canada grants an extension of the time for commencing such construction, within the time so granted; or, if the railway or branch or extension, as the case may be, is not completed and put in operation within five years from the passing of such Act, or, where the Parliament of Canada grants an extension of time for completion, within the time so granted; then the powers granted by such Act or by this Act cease and are null and void as respects so much of the railway or branch or extension, as the case may be, as then remains uncompleted. R.S., c. 170, s. 161.

Commence-  
ment.

Completion.

*General Powers.*

**164.** (1) The company may, for the purposes of the undertaking, subject to the provisions in this and the Special Act contained

Powers of  
company.

- (a) enter into and upon any Crown lands without previous licence therefor, or into or upon the lands of any person whomsoever, lying in the intended route or line of the railway, and make surveys, examinations or other necessary arrangements on such lands for fixing the site of the railway, and set out and ascertain such parts of the lands as are necessary and proper for the railway;
- (b) receive, take and hold, all voluntary grants and donations of lands or other property or any bonus of money or debentures, or other benefit of any sort, made to it for the purpose of aiding in the construction, maintenance and accommodation of the railway; but the same shall be held and used for the purpose of such grants or donations only;
- (c) purchase, take and hold of and from any person, any lands or other property necessary for the construction, maintenance and operation of the railway, and also alienate, sell or dispose of, any lands or property of the company that for any reason have become not necessary for the purposes of the railway;

Entry upon  
lands.

Surveys.

Receive  
grants and  
bonuses.

Acquire  
property.

Dispose of  
property  
not  
required.



- |  |  |
|--|--|
| Placing of railway.                    | (d) make, carry or place the railway across or upon the lands of any person on the located line of the railway;  |
| Cross and connect with other railways. | (e) cross any railway, or join the railway with any other railway at any point on its route, and upon the lands of such other railway, with the necessary conveniences for the purposes of such connection;  |
| Construct and operate railways.        | (f) make, complete, operate, alter and maintain the railway with one or more sets of rails or tracks, to be worked by the force and power of steam, electricity, or of the atmosphere, or by mechanical power, or any combination of them;   |
| Buildings, equipment, etc.             | (g) construct, erect and maintain all necessary and convenient roads, buildings, stations, depots, wharves, docks, elevators, and other structures, and construct, purchase and acquire stationary or locomotive engines, rolling stock, and other apparatus necessary for the accommodation and use of the traffic and business of the railway; |
| Branch railways.                       | (h) make branch railways, and manage the same, and for that purpose exercise all the powers, privileges and authority necessary therefor, in as full and ample a manner as for the railway;  |
| Transport passengers and freight.      | (i) take, transport, carry and convey persons and goods on the railway, and regulate the time and manner in which the same shall be transported, and the tolls to be charged therefor;   |
| Remove trees.                          | (j) fell or remove any trees that stand within one hundred feet from either side of the right of way of the railway, or are liable to fall across any railway track;   |
| Make tunnels and other works.          | (k) make or construct in, upon, across, under or over any railway, tramway, river, stream, watercourse, canal, or highway, which it intersects or touches temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings and fences;                         |
| Divert highways and waterways.         | (l) divert or alter, as well temporarily as permanently, the course of any such river, stream, watercourse or highway, or raise or sink the level thereof, in order the more conveniently to carry the same over, under or by the side of the railway;   |
| Construct drains.                      | (m) make drains or conduits into, through or under any lands adjoining the railway, for the purpose of conveying water from or to the railway;   |
| Divert drains, pipes and wires.        | (n) divert or alter the position of any water pipe, gas-pipe, sewer or drain, or any telegraph, telephone or electric lines, wires or poles;   |
| Telegraph, etc.                        | (o) construct, acquire and use telegraph, telephone or electric lines and plant;   |



(p) from time to time alter, repair or discontinue the works hereinbefore mentioned, or any of them, and substitute others in their stead; and

Alter and substitute other works.

(q) do all other acts necessary for the construction, maintenance and operation of the railway.

Other necessary acts.

(2) The tracks of every railway, the construction of which is commenced after the 7th day of July, 1919, shall be of the standard gauge of four feet eight and one-half inches, unless otherwise permitted by the Board. R.S., c. 170, s. 162.

Gauge.

**165.** The company shall restore, as nearly as possible, to its former state, any river, stream, watercourse, highway, water pipe, gas-pipe, sewer or drain, or any telegraph, telephone or electric line, wire or pole, that it diverts or alters, or it shall put the same in such a state as not materially to impair the usefulness thereof. R.S., c. 170, s. 163.

Diversions and alterations, to be made good.

**166.** The company shall, in the exercise of the powers by this or the Special Act granted, do as little damage as possible, and shall make full compensation, in the manner herein and in the Special Act provided, to all persons interested, for all damage by them sustained by reason of the exercise of such powers. R.S., c. 170, s. 164.

Damage.

Compensation.

**167.** Any company operating a railway from any point in Canada to any point on the international boundary line may exercise, beyond such boundary, in so far as permitted by the laws there in force, the powers that it may exercise in Canada. R.S., c. 170, s. 165.

Exercise of powers in United States.

**168.** The company may abandon the operation of any line of railway with the approval of the Board, and no company shall abandon the operation of any line of railway without such approval. 1932-33, c. 47, s. 1.

Abandonment of operation.

### *Commencement of Works.*

**169.** The company shall not, except as in this Act otherwise provided, commence the construction of the railway, or any section or portion thereof, until the general location has been approved by the Board as hereinafter provided, nor until the plan, profile and book of reference have been sanctioned by and deposited with the Board and duly certified copies thereof deposited with the registrars of deeds, in accordance with the provisions of this Act. R.S., c. 170, s. 166.

Requirements before works commenced.

### LOCATION OF LINE.

**170.** (1) The company shall prepare, and submit to the Board, in duplicate, a map showing the general location of the proposed line of the railway, the termini and the principal

Map.

Contents.

291

4613

principal

R.S., 1952.

cipal towns and places through which the railway is to pass, giving the names thereof, the railways, navigable streams and tidewaters, if any, to be crossed by the railway, and such as may be within a radius of thirty miles of the proposed railway, and, generally, the physical features of the country through which the railway is to be constructed, and shall give such further or other information as the Board may require.

Scale. (2) Such map shall be prepared upon a scale not smaller than six miles to the inch, or upon such other appropriate scale as the Board may determine, and shall be accompanied by an application in duplicate, stating the Special Application. Act authorizing the construction of such railway, and requesting the Board's approval of the general location as shown on the said map.

Approval of Board. (3) The Board may approve such map and location, or any portion thereof, or may make or require such changes and alterations therein as it deems expedient.

Board may approve whole or portion. (4) Where the Board approves the whole or any portion of such map and location such approval shall be signified upon the map and the duplicate thereof accordingly.

Filing. (5) The map when so approved and the application shall be filed in the Department of Transport and the duplicate thereof with the Board.

Application of section. (6) The provisions of this section only apply to the main line, and to branch lines over six miles in length. R.S., c. 170, s. 167; 1936, c. 34, s. 3.

### *Plan, Profile and Book of Reference.*

Plan, profile and book of reference. **171.** (1) Upon compliance with the provisions of section 170, the company shall make a plan, profile and book of reference of the railway.

Plan. (2) The plan shall show

- (a) the right of way, with lengths of sections in miles;
- (b) the names of terminal points;
- (c) the station grounds;
- (d) the property lines and owners' names;
- (e) the areas and length and width of lands proposed to be taken, in figures, stating every change of width; or other accurate description thereof;
- (f) the bearings; and
- (g) all open drains, watercourses, highways and railways proposed to be crossed or affected.

Profile. (3) The profile shall show the grades, curves, highway and railway crossings, open drains and watercourses.

(4) The book of reference shall describe the portion of land proposed to be taken in each lot to be traversed, giving numbers of the lots, and the area, length and width of the portion of each lot proposed to be taken, and names of owners and occupiers so far as they can be ascertained. Book of reference.

(5) The Board may require any additional information for the proper understanding of the plan and profile. Further information.

(6) The plan, profile and book of reference may be of a section or sections of the railway. Sections.

(7) In the Province of Quebec the portion of the railway comprised in each municipality shall be indicated on the plan, and in the book of reference, by separate number or numbers. R.S., c. 170, s. 168. Quebec.

**172.** (1) All plans and profiles required by law to be deposited by the company with the Board, shall be drawn to such scale, with such detail, upon such materials, and shall be of such character, as the Board may, either by general regulation, or in any case, require, or sanction. Plans and profiles, how prepared.

(2) All such plans and profiles shall be certified and signed by the president or vice-president or general manager, and also by the engineer of the company. Certification.

(3) Any book of reference, required to be so deposited, shall be prepared to the satisfaction of the Board. Book of reference.

(4) Unless and until such plan, profile and book of reference are so made satisfactory to the Board, the Board may refuse to sanction the same, or to allow the same to be deposited with the Board. R.S., c. 170, s. 169. Board may refuse sanction.

**173.** (1) Such plan, profile and book of reference shall be submitted to the Board, which, if satisfied therewith, may sanction the same. Sanction by Board.

(2) The Board by such sanction shall be deemed to have approved merely the location of the railway and the grades and curves thereof, as shown in such plan, profile and book of reference, but not to have relieved the company from otherwise complying with this Act. Effect.

(3) The Board upon the application of the company may sanction a deviation of not more than one mile from any one point as shown on the general location approved by the Board, and any such deviation shall be shown upon the general location plan filed with the Department of Transport, and upon the duplicate thereof filed with the Board. Board may sanction deviation of one mile.

Further information.

(4) Before sanctioning any plan, profile or book of reference of a section of a railway, the Board may require the company to submit the plan, profile and book of reference of the whole or of any portion of the remainder of the railway or such further or other information as the Board may deem expedient. R.S., c. 170, s. 170; 1936, c. 34, s. 3.

Board may fix time for acquiring land.

**174.** (1) In granting any such sanction, or in giving leave under any provision of this Act to take lands without the consent of the owner, the Board may fix a period

(a) within which the company must acquire the lands or take the necessary steps for such purpose, or

(b) within which the notice hereinafter required to be given, preliminary to proceeding to arbitration to fix compensation or damages, shall be conclusively deemed to have been given.

Application for time limit.

(2) In the event of the order granting such sanction or leave, whether made before or after the passing of this Act, providing no such time limit, any owner or person interested in the lands may apply to the Board for an order that the company shall acquire such lands, or take the necessary steps for such purpose, within such time as the Board deems proper, and thereupon the Board may make such order in the premises as appears just.

Company must acquire within one year.

(3) Where no time is fixed by the Board as above mentioned, if the company, within one year after any such sanction or leave has been given by the Board, or in any case where no such sanction or leave is necessary, if the company within one year after the plan, profile and book of reference have been deposited with the registrar of deeds, does not either acquire the lands covered by such sanction, leave, or plan, profile and book of reference, or give the notice hereinafter required to be given preliminary to proceeding to arbitration to fix compensation or damages in respect thereof, the company's right to take or enter upon, without the consent of the owner, any part of such lands that it has not within the said year either acquired or given such notice in respect of, at the expiration of such year absolutely ceases and determines, unless the Board, after notice to the owner and upon such terms as the Board may deem proper, otherwise orders.

Liability for damages.

(4) If no such order is made by the Board the company is liable for damages and costs to any person damaged by such failure to acquire the lands or give such notice. R.S., c. 170, s. 171.



*Deposit of Plans, etc., after Sanction.*

**175.** (1) The plan, profile and book of reference, when so sanctioned, shall be deposited with the Board, and each plan shall be numbered consecutively in order of deposit. Deposit with Board.

(2) The company shall also deposit copies thereof, or of such parts thereof as relate to each district or county through which the railway is to pass, duly certified as copies by the Secretary, in the offices of the registrars of deeds for such districts or counties respectively. R.S., c. 170, s. 172. With registrar of deeds.

*Errors.*

**176.** The railway may be made, carried or placed across or upon the lands of any person on the located line, although through error or any other cause, the name of such person has not been entered in the book of reference, or although some other person is erroneously mentioned as the owner of or entitled to convey, or as interested in such lands. R.S., c. 170, s. 173. Errors.

**177.** (1) Where any omission, mis-statement or error is made in any plan, profile or book of reference so registered, the company may apply to the Board for a certificate to correct the same. Corrections. Procedure.

(2) The Board may, in its discretion, require notice to be given to parties interested, and, if it appears to the Board that such omission, mis-statement or error arose from mistake, may grant a certificate setting forth the nature of the omission, mis-statement or error and the correction allowed. Notice.

(3) Upon the deposit of such certificate with the Board, and of copies thereof, certified as such by the Secretary, with the registrars of deeds of the districts or counties, respectively, in which such lands are situate, the plan, profile or book of reference shall be taken to be corrected in accordance therewith, and the company may, thereupon, subject to this Act, construct the railway in accordance with such correction. R.S., c. 170, s. 174. Deposit.

*Deposit of Plans, etc., of Completed Railway.*

**178.** (1) A plan and profile of the completed railway or of any part thereof that is completed and in operation, and of the land taken or obtained for the use thereof, shall, within six months after completion of the undertaking, or within six months after beginning to operate any such completed part, as the case may be, or within such extended or renewed period as the Board at any time directs, be made and filed with the Board. Plan and profile of completed line must be filed: With Board.

At registry  
office.

(2) Plans of the parts of such railway so completed or in operation located in different districts and counties, prepared on such a scale, and in such manner and form, and signed or authenticated in such manner, as the Board may from time to time, by general regulation or in any individual case, sanction or require, shall be filed in the registry offices for the districts and counties in which such parts are respectively situate. R.S., c. 170, s. 175.

### *Duties of Registrars of Deeds.*

Duties of  
registrars  
of deeds.

**179.** (1) Every registrar of deeds shall receive and preserve in his office, all plans, profiles, books of reference, certified copies thereof, and other documents, required by this Act to be deposited with him, and shall endorse thereon the day, hour and minute when the same were so deposited.

Extracts  
and copies.

(2) All persons may resort to such plans, profiles, books of reference, copies and documents so deposited, and may make extracts therefrom, and copies thereof, as occasion requires, paying the registrar therefor at the rate of ten cents for each hundred words, so copied or extracted, and ten cents for each copy made of any plan or profile.

Fees.

Registrar to  
furnish  
certified  
copies.

(3) The registrar shall, at the request of any person, certify copies of any plan, profile, book of reference, certified copy thereof, or other document, deposited in his office under the provisions of this Act, or of such portions thereof as may be required, on being paid therefor at the rate of ten cents for each hundred words copied, and such additional sum, for any copy of plan or profile furnished by him, as is reasonable and customary in like cases, together with fifty cents for each certificate given by him.

Certificate  
of regis-  
trar.

(4) Such certificate of the registrar shall set forth that the plan, profile or document, a copy of which, or of any portion of which, is certified by him, is deposited in his office, and shall state the time when it was so deposited, and that he has carefully compared the copy certified with the document on file, and that the same is a true copy of such original.

Evidence.

(5) Such certified copy is *prima facie* evidence of the original so deposited, that such original was so deposited at the time stated and certified, and that the same was signed, certified, attested or otherwise executed by the persons by whom and in the manner in which the said original purports to be signed, certified, attested or executed, as shown or appearing by such certified copy; and

in the case of a plan, that such plan is prepared according to a scale and in a manner and form sanctioned by the Board. R.S., c. 170, s. 176.

*Board may Require Further Plans, etc.*

**180.** In addition to the plans, profiles and books of reference elsewhere provided for, the company shall, with all reasonable expedition, prepare and deposit with the Board, any other or further plans, profiles, or books of reference of any portion of the railway, or of any siding, station or works thereof, that the Board may from time to time order or require. R.S., c. 170, s. 177.

Further plans, etc., as Board requires.

*Deviations, Changes and Removal.*

**181.** (1) If any deviation, change or alteration is required by the company to be made in the railway, or any portion thereof, as already constructed, or as merely located and sanctioned, a plan, profile and book of reference of the portion of such railway proposed to be changed, showing the deviation, change or alteration proposed to be made, shall, in like manner as hereinbefore provided with respect to the original plan, profile and book of reference, be submitted for the approval of the Board, and may be sanctioned by the Board.

Deviations, changes or alterations.

Plan, profile, etc.

Sanction.

(2) The plan, profile and book of reference of the portion of such railway so proposed to be changed shall, when so sanctioned, be deposited and dealt with as hereinbefore provided with respect to such original plan, profile and book of reference.

Deposit.

(3) The company may thereupon make such deviation, change, or alteration, and all the provisions of this Act apply to the portion of such line of railway, at any time so changed or proposed to be changed, in the same manner as they apply to the original line.

Company may execute works.

(4) The Board may, either by general regulation, or in any particular case, exempt the company from submitting the plan, profile and book of reference, as in this section provided, where such deviation, change, or alteration is made, or to be made, for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting the railway, or for any other purpose of public advantage, as may seem to the Board expedient, if such deviation, change, or alteration does not exceed three hundred feet from the centre line of the railway, located, or constructed, in accordance with the plans, profiles and books of reference deposited with the Board under this Act.

Board may dispense with proceedings.



Termini  
to be  
observed.

(5) Nothing in this section shall be taken to authorize any extension of the railway beyond the termini mentioned in the Special Act. R.S., c. 170, s. 178.

Unauthor-  
ized changes  
forbidden.

**182.** The company shall not, at any time, make any change, alteration or deviation in the railway, or any portion thereof, until the provisions of section 181 are fully complied with, nor remove, close, or abandon any station, or divisional point nor create a new divisional point that would involve the removal of employees, without leave of the Board; and where any such change is made the company shall compensate its employees as the Board deems proper for any financial loss caused to them by change of residence necessitated thereby. R.S., c. 170, s. 179.

Compensa-  
tion.

### *Branch Lines.*

Power to  
construct.

**183.** The company may, for the purposes of its undertaking, construct, maintain and operate branch lines, not exceeding in any one case six miles in length, from the main line of the railway or, except as hereinafter provided, from any branch thereof. R.S., c. 170, s. 180.

Procedure.

**184.** Before commencing to construct any such branch line, the company shall

Plans, etc.

(a) make a plan, profile and book of reference, showing the proposed location of the branch line, with the particulars hereinbefore required as to plans, profiles and books of reference of the main line, and deposit the same, or such parts thereof as relate to each district or county through which the branch line is to pass, in the offices of the registrars of deeds for such districts or counties respectively;

Notice of  
application  
to Board.

(b) upon such deposit, give four weeks' public notice of its intention to apply to the Board under this section, in some newspaper published in each county or district through which the branch line is to pass, or, if there should be no newspaper published in such county or district, then for the same period in the *Canada Gazette*; the Board may dispense with or shorten the time of such notice in any case where it deems proper; and

Papers to  
be sub-  
mitted.

(c) after the expiration of the notice submit to the Board, upon such application, a duplicate of the plan, profile and book of reference so deposited. R.S., c. 170, s. 181.

Board may  
authorize  
branch  
line.

**185.** (1) The Board, if satisfied that the branch line is necessary in the public interest or for the purpose of giving increased facilities to business, and if satisfied with the



location of such branch line, and the grades and curves as shown on such plan, profile and book of reference, may, in writing, authorize the construction of the branch line in accordance with such plan, profile and book of reference, or subject to such changes in location, grades and curves as the Board may direct.

(2) Such authority shall limit the time, not exceeding two years, within which the company shall construct and complete such branch line. R.S., c. 170, s. 182. Time for construction.

**186.** (1) There shall be deposited with the Board the authority and the duplicate of such plan, profile and book of reference, together with such papers and plans as are necessary to show and explain any changes directed by the Board, under the provisions of section 185. Papers to be deposited with Board.

(2) The company shall deposit in the registry offices of the counties or district through which the branch line is to pass, copies, certified as such by the Secretary, of the authority, and of the papers and plans, showing the changes directed by the Board. Copies with registrars of deeds.

(3) No branch line shall be

(a) extended under the foregoing provisions for the construction of branch lines, or

(b) constructed so as to form, in effect, an extension of the railway beyond the termini mentioned in the Special Act. No extension allowed.

(4) Except with reference to branch lines authorized by the Special Act to be constructed between any two points or places definitely fixed or named therein, no power to construct branch lines in any Special Act contained, inconsistent with the foregoing provisions for the construction of branch lines, has any force or effect, but nothing in this subsection shall be deemed to take away or impair the rights or powers of any company under any contract with the Government of Canada, approved and ratified by a Special Act of the Parliament of Canada. R.S., c. 170, s. 183. Special Act controlled. Saving.

**187.** Upon compliance with the requirements of sections 183 to 186 all the other provisions of this Act, except sections 173 and 175, relating to the sanction by the Board of the plan, profile and book of reference of the railway, and the deposit thereof with the Board and in the offices of the registrars of deeds for the districts or counties through which the railway is to pass, apply, in so far as applicable, to the branch lines so authorized, and to the lands to be taken for such branch lines. R.S., c. 170, s. 184. Provisions applicable.

*Industrial Spurs.*

Branch  
lines re-  
quired by  
owner of any  
industry.

**188.** (1) When any industry or business is established or intended to be established, within six miles of the railway, and the owner of such industry or business, or the person intending to establish the same, is desirous of obtaining railway facilities in connection therewith, but cannot agree with the company as to the construction and operation of a spur or branch line from the railway thereto, the Board may, on the application of such owner or person, and upon being satisfied of the necessity for such spur or branch line in the interests of trade, order the company to construct, maintain and operate such spur or branch line, and may direct such owner or person to deposit in some chartered bank such sum or sums as are by the Board deemed sufficient, or are by the Board found to be necessary to defray all expenses of constructing and completing the spur or branch line in good working order, including the cost of the right of way, incidental expenses and damages.

Owner to  
deposit  
cost.

Payment  
therefrom  
to the  
company.

(2) The amount so deposited shall, from time to time, be paid to the company upon the order of the Board, as the work progresses.

Repayment  
to owner  
by rebate  
on tolls.

(3) The aggregate amount so paid by the applicant in the construction and completion of the said spur or branch line shall be repaid or refunded to the applicant by the company by way of rebate, to be determined and fixed by the Board, out of or in proportion to the tolls charged by the company in respect of the carriage of traffic for the applicant over the said spur or branch line.

Lien to  
owner  
meantime.

(4) Until so repaid or refunded, the applicant has a special lien for such amount upon such branch line, to be reimbursed by rebate as aforesaid.

Discharge  
of lien.

(5) Upon repayment by the company to such applicant of all payments made by the applicant upon such construction, the said spur or branch line, right of way and equipment becomes the absolute property of the company free from any such lien.

Operation  
of branch  
to be  
regulated  
by Board.

(6) The operation and maintenance of the said spur or branch line by the company is subject to and shall be in accordance with such order as the Board makes with respect thereto, having due regard to the requirements of the traffic thereon, and to the safety of the public and of the employees of the company.

Provisions  
applicable.

(7) All the provisions of this Act respecting the construction of spur or branch lines apply to any spur or branch line constructed under this section. R.S., c. 170, s. 185.

**189.** Notwithstanding anything done under section 188 and notwithstanding any agreement made thereunder or otherwise the Board may, on application permit any owner of another industry or business or any person intending to establish another industry or business, within six miles of the railway, to have traffic carried over any spur or branch line, or any part thereof, constructed pursuant to the said section or to have such spur or branch line extended; but any terms and conditions that the Board thinks just and reasonable shall always be imposed, and regard shall always be had to the convenience of the owner or person having senior rights in such spur or branch line. R.S., c. 170, s. 186.

Use of spur for another industry.

**190.** No branch line or spur constructed pursuant to either section 188 or 189 shall be removed without the consent of the Board. R.S., c. 170, s. 187.

Removal.

### *Stations.*

**191.** (1) Before the company proceeds to erect any station upon its railway, the location of such station shall be approved of by the Board.

Stations, location of to be approved by Board. Facilities.

(2) Every station of the company shall be erected, operated and maintained with good and sufficient accommodation and facilities for traffic.

(3) The company shall erect, maintain and operate stations at any points on the railway designated by the Board, and shall provide such accommodation and facilities in connection therewith as the Board directs.

Board may order station.

(4) In the case of any railway, whether subject to the legislative authority of the Parliament of Canada or not, subsidized in money or in land, after the 18th day of July, 1900, under the authority of an Act of the Parliament of Canada, the payment and acceptance of such subsidy shall be taken to be subject to the covenant or condition, whether expressed or not in any agreement relating to such subsidy, that the company, for the time being owning or operating such railway, shall, when thereto directed by order of the Board, maintain and operate stations, with such accommodation or facilities in connection therewith as are defined by the Board, at such points on the railway as are designated in such order. R.S., c. 170, s. 188.

On railways subsidized by Parliament.

### THE TAKING AND USING OF LANDS.

#### *Restrictions—Crown Lands.*

**192.** (1) No company shall take possession of, use or occupy any lands vested in the Crown, without the consent of the Governor in Council.

Crown lands.

292½

4623

(2)

R.S., 1952.

Consent.

(2) Any railway company may, with such consent, upon such terms as the Governor in Council prescribes, take and appropriate, for the use of its railway and works, so much of the lands of the Crown lying on the route of the railway that have not been granted or sold, as is necessary for such railway, and also so much of the public beach, or bed of any lake, river or stream, or of the land so vested covered with the waters of any such lake, river or stream as is necessary for making, completing and using its said railway and works.

May not alienate.

(3) The company may not alienate any such lands so taken, used or occupied.

In trust.

Compensation.

(4) Whenever any such lands are vested in the Crown for any special purpose, or subject to any trust, the compensation money that the company pays therefor shall be held or applied by the Governor in Council for the like purpose or trust. R.S., c. 170, s. 189.

### *Public Beach and Waters.*

Public beach and lands covered with water.

**193.** The extent of the public beach, or of the land covered with the waters of any river or lake in Canada, taken for the railway, shall not exceed the quantity hereinafter limited in the case of lands which may be taken without the consent of the owner. R.S., c. 170, s. 190.

### *Military Lands.*

Military lands.

**194.** (1) Whenever it is necessary for the company to occupy any part of the lands belonging to the Crown reserved for naval, army or air force purposes, it shall first apply for and obtain the licence and consent of the Crown, under the hand and seal of the Governor General.

Licence or consent.

(2) No such licence or consent shall be given, except upon a report first made thereupon by the naval, army or air force authorities, in which such lands are for the time being vested, approving of such licence and consent being so given.

Entry.

(3) The company may, with such licence and consent, at any time or times enter into and enjoy any of the said lands for the purposes of the railway. R.S., c. 170, s. 191.

### *Indian Lands.*

Indian lands.

**195.** (1) No company shall take possession of or occupy any portion of any Indian reserve or surrendered lands, without the consent of the Governor in Council.



(2) When, with such consent, any portion of any such reserve or lands is taken possession of, used or occupied by any railway company, or when the same is injuriously affected by the construction of any railway, compensation shall be made therefor as in the case of lands taken without the consent of the owner. R.S., c. 170, s. 192.

*Other Railways.*

**196.** (1) The company may take possession of, use or occupy any lands belonging to any other railway company, use and enjoy the whole or any portion of the right of way, tracks, terminals, stations or station grounds of any other railway company, and have and exercise full right and power to run and operate its trains over and upon any portion or portions of the railway of any other railway company, subject always to the approval of the Board first obtained and to any order and direction that the Board may make in regard to the exercise, enjoyment or restriction of such powers or privileges.

Lands of other companies.  
Use of tracks, etc.

Approval of Board.

(2) Such approval may be given upon application and notice, and, after hearing, the Board may make such order, give such directions, and impose such conditions or duties upon either party as to it may appear just or desirable, having due regard to the public and all proper interests.

Procedure therefor.

(3) If the parties fail to agree as to compensation, the Board may, by order, fix the amount of compensation to be paid in respect of the powers and privileges so granted.

Compensation

(4) Where the proposed location of any new railway is close to or in the neighbourhood of an existing railway, and the Board is of opinion that it is undesirable in the public interest to have the two separate rights of way in such vicinity, the Board may, when it deems proper, upon the application of any company, municipality or person interested, or of its own motion, order that the company constructing such new railway shall take the proceedings provided for in subsection (1) to such extent as the Board deems necessary in order to avoid having such separate rights of way.

Board may order proceedings.

(5) The Board, in any case where it deems it in the public interest to avoid the construction of one or more new railways close to or in the neighbourhood of an existing railway, or to avoid the construction of two or more new railways close to or in the neighbourhood of each other, may, on the application of any company, municipality or person interested, or of its own motion, make such order or direction for the joint or common use, or construction

Joint use of tracks, etc.

and use, by the companies owning, constructing or operating such railways, of one right of way, with such number of tracks, and such terminals, stations and other facilities, and such arrangements respecting them, as may be deemed necessary or desirable. R.S., c. 170, s. 193.

### *Mines and Minerals.*

Mines to be protected.

**197.** No company shall, without the authority of the Board, locate the line of its proposed railway, or construct the same or any portion thereof, so as to obstruct or interfere with, or injuriously affect the working of, or the access or adit to any mine then open, or for the opening of which preparations are, at the time of such location, being lawfully and openly made. R.S., c. 170, s. 194.

Company not entitled to minerals.

**198.** (1) The company is not, unless the same have been expressly purchased, entitled to any mines, ores, metals, coal, slate, mineral oils, gas or other minerals in or under any lands purchased by it, or taken by it under any compulsory powers given it by this Act, except only such parts thereof as are necessary to be dug, carried away or used in the construction of the works.

Exception.

Not included in conveyance.

(2) All such mines and minerals, except as aforesaid, shall be deemed to be excepted from the conveyance of such lands, unless they have been expressly named therein and conveyed thereby. R.S., c. 170, s. 195.

Mining under or within 40 yards of any railway.

**199.** (1) No owner, lessee or occupier of any such mines or minerals lying under the railway or any of the works connected therewith, or within forty yards therefrom, shall work the same until leave therefor has been obtained from the Board.

Application for leave of Board.

(2) Upon any application to the Board for leave to work any such mines or minerals, the applicant shall submit a plan and profile of the portion of the railway to be affected thereby, and of the mining works or plant affecting the railway, proposed to be constructed or operated, giving all reasonable and necessary information and details as to the extent and character of the same.

Protection and safety of the public.

(3) The Board may grant such application upon such terms and conditions for the protection and safety of the public as to the Board seem expedient, and may order that such other works be executed, or measures taken, as under the circumstances appear to the Board best adapted to remove or diminish the danger arising or likely to arise from such mining operations. R.S., c. 170, s. 196.

**200.** The company shall, from time to time, pay to the owner, lessee, or occupier of any such mines such compensation as the Board shall fix and order to be paid, for or by reason of any severance by the railway of the land lying over such mines, or because of the working of such mines being prevented, stopped or interrupted, or of the same having to be worked in such manner and under such restrictions as not to injure or be detrimental to the railway, and also for any minerals not purchased by the company that cannot be obtained by reason of the construction and operation of the railway. R.S., c.170, s.197.

Board may order compensation in certain cases.

**201.** If necessary in order to ascertain whether any such mines are being worked, or have been worked, so as to injure or be detrimental to the railway or its safety or the safety of the public, the company may with the written permission of the Board, after giving twenty-four hours' notice in writing, enter upon any lands through or near which the railway passes wherein any such mines are being worked, and enter into and return from any such mines or the works connected therewith; and for such purpose may make use of any apparatus of such mines and use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked. R.S., c. 170, s. 198.

Examination of mine workings.

*Extent of Lands that may be Taken without Consent.*

**202.** The lands that may be taken without the consent of the owner shall not, subject to the provisions of section 203, exceed

Lands taken without consent.

(a) for the right of way, one hundred feet in breadth, except in places where the rail level is or is proposed to be more than five feet above or below the surface of the adjacent lands, when such additional width may be taken as shall suffice to accommodate the slope and side ditches, or

For right of way.

(b) for stations, depots and yards, with the freight sheds, warehouses, wharfs, elevators and other structures for the accommodation of traffic incidental thereto, one mile in length by five hundred feet in breadth, including the width of the right of way;

For stations, etc.

and no interest in land less than a fee-simple interest shall be acquired without the consent of the owner, except upon leave of the Board and upon such terms and conditions as the Board may impose. R.S., c. 170, s. 199.

Interests less than fee simple.



*Leave to Take Additional Lands.*

Where  
more ample  
space  
required.

**203.** (1) Should the company require, at any point on the railway, more ample space than it possesses or may take under section 202, for the convenient accommodation of the public, or for the traffic on its railway, or for protection against snowdrifts, or for the diversion of a highway, or for the substitution of one highway for another, or for the construction or taking of any works or measures ordered by the Board under any of the provisions of this Act or the Special Act, or to secure the efficient construction, maintenance or operation of the railway, it may, whether before or after the railway has been opened for the carriage of traffic, apply to the Board for authority to take the same for such purposes, without the consent of the owner.

Procedure.

(2) The company shall give ten days' notice of such application to the owner or possessor of such lands, and shall, upon such application, furnish to the Board copies of such notices, with affidavits of the service thereof.

What appli-  
cation must  
include.

(3) The company, upon such application, shall also furnish to the Board, in duplicate

Plan, etc.

(a) a plan, profile and book of reference of the portion of the railway affected, showing the additional lands required, and certified as hereinbefore provided with respect to plans and profiles required to be deposited by the company with the Board, and

Particulars  
to be  
specified.

(b) an application, in writing, for authority to take such lands, signed and sworn to by the president, vice-president, general manager or engineer of the company, referring to the plan, profile and book of reference, specifying definitely and in detail the purposes for which each portion of the lands is required, and the necessity for the same, and showing that no other land suitable for such purposes can be acquired at such place on reasonable terms and with less injury to private rights.

Authority  
from  
Board.

(4) After the time stated in such notices, and the hearing of such parties interested as may appear, the Board may, in its discretion, and upon such terms and conditions as the Board deems expedient, authorize in writing the taking, for the said purposes, of the whole or any portion of the lands applied for.

In dupli-  
cate.

(5) Such authority shall be executed in duplicate, and one of such duplicates shall be filed, with the plan, profile, book of reference, application and notices, with the Board; and the other, with the duplicate plan, profile, book of reference and application, shall be delivered to the company.



(6) Such duplicate authority, plan, profile, book of reference and application, or copies thereof certified as such by the Secretary, shall be deposited with the registrars of deeds of the districts or counties, respectively, in which such lands are situate.

Deposit with registrars of deeds.

(7) All the provisions of this Act applicable to the taking of lands without the consent of the owner for the right of way or main line of the railway apply to the lands authorized under this section to be taken except sections 173 and 175 relating to the sanction by the Board of the plan, profile and book of reference of the railway, but the deposit with the Board and with the registrar of deeds shall be made as provided in this section.

Provisions of this Act which apply.

(8) The Board may, upon consent in writing having been first obtained from the Minister in that behalf, repeal, rescind, change or vary any certificate of the Minister made under section 109 of the *Railway Act, 1888*. R.S., c. 170, s. 200.

Repeal and change of certificates made under 1888, c. 29, s. 109.

### *Using Lands for Special Purposes.*

**204.** (1) The company, either for the purpose of constructing or repairing its railway, or for the purpose of carrying out the requirements of the Board, or in the exercise of the powers conferred upon it by the Board, may enter upon any land that is not more than six hundred feet distant from the centre of the located line of the railway, and may occupy the said land as long as is necessary for the purposes aforesaid; and all the provisions of law at the time applicable to the taking of land by the company, and its valuation, and the compensation therefor, apply to the case of any land so required.

Use of adjoining lands.

(2) Before entering upon any land for the purposes aforesaid, the company shall, in case the consent of the owner is not obtained, pay into the office of one of the superior courts for the province in which the land is situated

If owner does not consent.

(a) such sum, as is, after two clear days' notice to the owner of the land, or to the person empowered to convey the same, or interested therein, fixed by a judge of such superior court, and

Sum to be deposited.

(b) interest for six months upon the sum so fixed.

Interest.

(3) Such deposit shall be retained to answer any compensation that may be awarded the person entitled thereto, and may upon order of a judge of such court, be paid out to such person in satisfaction *pro tanto* of such award, and the surplus, if any thereafter remaining, shall by order of the judge, be repaid to the company.

As security for compensation.

Deficiency  
to be paid.

(4) Any deficiency in such deposit to satisfy such award shall be forthwith paid by the company to the person entitled to compensation under such award. R.S., c. 170, s. 201.

## 205. (1) Whenever

Obtaining  
materials  
for construc-  
tion or  
operation.  
Transport.

(a) any stone, gravel, earth, sand, water or other material is required for the construction, maintenance or operation of the railway, or any part thereof, or

Tracks or  
conduits.

(b) such materials or water, so required, are situate, or have been brought to a place at a distance from the line of railway, and the company desires to lay down the necessary tracks, spurs or branch lines, water pipes or conduits, over or through any lands intervening between the railway and the land on which such materials or water are situate, or to which they have been brought,

Plan and  
description.

the company may, if it cannot agree with the owner of the lands for the purchase thereof, cause a land surveyor, duly licensed to act in the province, or an engineer to make a plan and description of the property or right of way, and shall serve upon each of the owners or occupiers of the land affected a copy of such plan and description, or of so much thereof as relates to the lands owned or occupied by them respectively, duly certified by such surveyor or engineer.

Provisions  
of this Act  
which  
apply.

(2) All the provisions of this Act apply, in so far as applicable, and the powers thereby granted may be used and exercised to obtain the materials or water, so required, or the right of way to the same, irrespective of the distance thereof, except that the company is not required to submit any such plan for the sanction of the Board.

Title may  
be acquired.

(3) The company may, at its discretion, acquire the lands from which such materials or water are taken, or upon which the right of way thereto is located, for a term of years or permanently.

Arbitra-  
tion.

(4) The notice of arbitration, if arbitration is resorted to, shall state the extent of the privilege and title required.

Tracks not  
to be used  
for other  
purposes.

(5) The tracks, spurs or branch lines constructed or laid by the company under this section shall not be used for any purpose other than in this section mentioned, except by leave of the Board, and subject to such terms and conditions as the Board sees fit to impose.

Power of  
Board.

(6) The Board may restrict or forbid the exercise of any power under this section. R.S., c. 170, s. 202.

**206.** (1) Every railway company may, on and after the 1st day of November, in each year, enter into and upon any lands of Her Majesty or of any person lying along the route or line of the railway, and erect and maintain snow fences thereon, subject to the payment of such land damages, if any actually suffered, as are thereafter established by mutual agreement, and failing such agreement, in the manner provided by law with respect to such railway or, in the alternative, at the option of the claimant, by the Board, who, upon hearing, shall determine and fix the compensation to be paid the owner by way of damages. Snow fences.  
Compensation.

(2) Every snow fence so erected shall be removed on or before the 1st day of April then next following. Removal. R.S., c. 170, s. 203; 1938, c. 40, s. 1; 1938, c. 53, s. 3.

### *Purchase and Conveyance.*

**207.** (1) Except as otherwise hereinafter provided, whenever the company can purchase a larger quantity of land from any particular owner at a more reasonable price, on the average, or on terms more advantageous, than those upon which it could obtain the portion thereof that it may take from him without his consent, it may purchase such larger quantity. Purchase of more land than required.

(2) The company may sell and dispose of any part of the lands so purchased that may be unnecessary for its undertaking. Re-sale. R.S., c. 170, s. 204.

**208.** All tenants in tail or for life, *grevés de substitution*, guardians, curators, executors, administrators, trustees and all persons whomsoever, as well for and on behalf of themselves, their heirs and successors, as on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert* or other persons, seized, possessed of or interested in any lands, may, subject to the provisions of section 209, contract and sell and convey to the company all or any part thereof. Power of representative persons to convey. R.S., c. 170, s. 205.

**209.** (1) When such persons have no right in law to sell or convey the rights of property in the said lands they shall not sell or convey the same without obtaining from a judge, after due notice to the persons interested, the right to sell the said lands; but where any person interested is absent from the district or county in which the lands lie, or is unknown, the judge may order such substitutional service of notice as he deems proper or may dispense with notice. Order of judge may be had.

Purchase  
money.

(2) The said judge shall give such orders as are necessary to secure the investment of the purchase money, in such a manner as he deems necessary, in accordance with the law of the province, to secure the interests of the owner of the said land. R.S., c. 170, s. 206.

Limitation  
of powers  
to convey.

**210.** The powers by sections 208 and 209 conferred upon

(a) rectors in possession of glebe lands in the Province of Ontario;

(b) ecclesiastical and other corporations;

(c) trustees of land for church or school purposes;

(d) executors appointed by wills under which they are not invested with, and have not otherwise, power to sell the real property of the testator; and

(e) administrators of persons dying intestate seized of real property, where such administrators have not power to sell such property;

shall only extend and be exercised with respect to any of such lands actually required for the use and occupation of the company. R.S., c. 170, s. 207.

Conveyance  
to vest fee  
simple.

**211.** (1) Any contract, agreement, sale, conveyance or assurance made under the authority of section 208, 209 or 210 is valid and effectual in law, to all intents and purposes and whatsoever; and any conveyance so authorized vests in the company receiving the same the fee simple in the lands therein described, freed and discharged from all trusts, restrictions and limitations whatsoever.

Indemnity  
to persons  
conveying.

(2) The person so conveying is hereby relieved from liability for what he does by virtue of or in pursuance of this Act. R.S., c. 170, s. 208.

Application  
of purchase  
money.

**212.** The company is not responsible for the disposition of any purchase money for lands taken by the company for its purposes, if paid to the owner of the land or into court for his benefit. R.S., c. 170, s. 209.

Prior  
contracts.

**213.** (1) Any contract or agreement made by any person authorized by this Act to convey lands, either before the deposit of the plan, profile and book of reference, or before the setting out and ascertaining of the lands required for the railway, is, if such contract or agreement or notice thereof by *caveat* or otherwise, is duly registered with the proper registrar of deeds, binding at the price agreed upon, if the lands are afterwards so set out and ascertained within



one year from the date of the contract or agreement, and although such lands have in the meantime become the property of a third person.

(2) Possession of the lands may be taken, and the agreement and price may be dealt with, as if such price had been fixed by an arbitration award as hereinafter provided, and the agreement shall be in the place of an award. R.S., c. 170, s. 210. May be carried out.

**214.** (1) If, in any case not hereinbefore provided for, any person interested in any lands so set out and ascertained is not authorized by law to sell or alienate the same, he may agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid therefor. Rental when parties cannot sell.

(2) If the amount of the rent is not fixed by agreement, it shall be fixed and all proceedings shall be regulated, in the manner prescribed in this Act. R.S., c. 170, s. 211. How fixed.

**215.** Such annual rent and every other annual rent, agreed upon or ascertained, and to be paid for the purchase of any lands, or for any part of the purchase money of any lands which the vendor agrees to leave unpaid, shall, upon the deed creating such charge and liability being duly registered in the registry office of the proper district, county or registration division, be chargeable as part of the working expenditure of the railway. R.S., c. 170, s. 212. Rent chargeable to working expenses.

*Publishing Notice of Plans and Making Agreements.*

**216.** (1) After the expiration of ten days from the deposit of the plan, profile and book of reference in the office of the registrar of deeds, and after notice thereof has been given in at least one newspaper, if any, published in each of the districts and counties through which the railway is intended to pass, application may be made by the company to the owners of lands, or to persons empowered to convey lands, or interested in lands, that may be taken, or that suffer damage from the taking of materials, or the exercise of any of the powers granted for the railway; and, thereupon, such agreements and contracts as seem expedient to both parties may be made with such persons, touching the said lands or the compensation to be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained. Compensation or damages may be agreed for. Agreements authorized.

(2) The company may at any time grant or agree to grant to the owner of any lands injuriously affected, or likely to be injuriously affected, by the exercise of the

4633

company's

R.S., 1952.

company's powers, any easement, servitude or privilege over or in respect of the company's lands or the lands being taken by the company, and may construct and maintain or agree to construct and maintain any work for such owner's benefit; and any such agreement may be enforced by the Board, or damages may be recovered for the breach thereof in any court of competent jurisdiction.

General  
notice.

(3) Such deposit of plan, profile and book of reference and such notice of such deposit, shall be deemed a general notice to all parties of the lands which will be required for the railway and works. R.S., c. 170, s. 213.

Disagree-  
ment.

**217.** In case of disagreement between the parties, or any of them, all questions that arise between them shall be settled as hereinafter provided. R.S., c. 170, s. 214.

#### EXPROPRIATION PROCEEDINGS.

##### *Notice.*

Notice of  
expropria-  
tion to be  
served.

**218.** Preliminary to proceeding to arbitration to fix compensation or damages, the company shall serve upon the opposite party a notice, which shall contain

- (a) a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands therein described;
- (b) a declaration of readiness to pay a certain sum or rent, as the case may be, as compensation for such lands or for such damages; and
- (c) a notification that if within ten days after the service of this notice, or, where the notice is served by publication, within one month after the first publication thereof, the party to whom the notice is addressed does not give notice to the company that he accepts the sum offered by the company, either he or the company will be entitled to apply to have the compensation fixed by arbitration as provided in this Act. R.S., c. 170, s. 215.

Certificate  
of surveyor  
or engineer.

**219.** Such notice shall be accompanied by the certificate of a sworn surveyor for the province in which the lands are situated or an engineer, who is not interested in the land or in the amount of compensation or damages, which certificate shall state

- (a) that the land, if the notice relates to the taking of land shown on the said plan, is required for the railway;
- (b) that he knows the land, or the amount of damage likely to arise from the exercise of the powers; and
- (c) what sum is, in his opinion, a fair compensation for the land and damages aforesaid. R.S., c. 170, s. 216.

**220.** (1) If the opposite party is absent from the district or county in which the lands lie, or is unknown, an application for service by advertisement may be made to a judge of a superior court for the province or district, or to the judge of the county court of the county where the lands lie.

Service by publication.

(2) Such application shall be accompanied by such certificate as aforesaid, and by an affidavit of some officer of the company, that the opposite party is so absent, or that, after diligent inquiry, the person on whom the notice ought to be served cannot be ascertained.

Application for.

(3) The judge shall order a notice as aforesaid, but without such certificate, to be inserted three times in the course of one month in a newspaper published in the district or county, or, if there is no newspaper published therein, then in a newspaper published in some adjacent district or county, and in such other newspaper, if any, as the judge may direct. R.S., c. 170, s. 217.

Judge shall order notice.

**221.** (1) Where the notice given improperly describes the lands or materials intended to be taken, or where the company decides not to take the lands or materials mentioned in the notice, it may abandon the notice and all proceedings thereunder, but is liable to the person notified for all damages suffered and costs incurred by him in consequence of such notice and abandonment, and such damages shall be fixed and such costs taxed by the judge, or as he directs.

Notice may be abandoned.

Damages and costs.

(2) The company after payment of such damages and costs, if any, may, notwithstanding the abandonment of any former notice, give to the same or any other person notice for other lands or materials, or for lands or materials otherwise described.

New notice may be given.

(3) Where the amount of compensation payable under the notice has been referred to arbitration, the company may, in lieu of abandoning the notice pursuant to subsection (1), give to the opposite party and to the arbitrator, a notice varying the description of the lands or materials to be taken or the powers intended to be exercised by the company; which subsequent notice shall also contain

Notice in lieu of abandonment.

(a) a declaration of readiness to pay a certain sum or rent as the case may be, as compensation for such lands or for damages for such materials or powers, and damages suffered and costs incurred by such opposite party in consequence of the former notice, and

Particulars of notice.



(b) a notification that if within eight days after the service of such notice, the party to whom the notice is addressed does not give notice to the company that he accepts the sum offered by the company, the arbitrator may proceed to fix the compensation for the lands, materials or powers described in such subsequent notice.

Evidence.

(4) In the event of the arbitration proceeding pursuant to such subsequent notice, all evidence taken and proceedings had under the former notice, shall, in so far as they are applicable, be used in the arbitration upon the subsequent notice and the proceedings on both notices shall be deemed one arbitration, but the company is liable to pay all damages suffered and costs incurred by the opposite party by reason of the company having failed to demand by the original notice, the lands, materials or powers as described in the subsequent notice. R.S., c. 170, s. 218.

#### Arbitrator.

If sum offered not accepted.

**222.** (1) If within ten days after the service of such notice, or, where service is made by advertisement, within one month after the first publication thereof, the opposite party does not give notice to the company that he accepts the sum offered by it, either party may apply to the judge of the county court of the county in which the lands lie, or, in the Province of Quebec or in any other part of Canada where there is no county court, to a judge of the superior court for the district or place in which the lands lie, to determine the compensation to be paid as aforesaid.

Appointment of arbitrator.

Notice.

(2) Ten days' notice of such application shall be given by the company to the opposite party, or *vice versa*.

Service by publication.

(3) If the opposite party is absent from the district or county in which the lands lie, or is unknown, service of such ten days' notice may be made by advertisement as hereinbefore authorized; but the judge may dispense with, shorten or lengthen the time or times for the publication of the notice in any case in which he deems it proper. R.S., c. 170, s. 219.

Constituting arbitrator.

**223.** (1) Such judge shall, upon application being made to him as aforesaid, become the arbitrator for determining such compensation, except that where such judge is personally interested in the land or in the amount of the compensation or damages in question, or where for any other reason it is necessary, either party may, on six days' notice to the opposite party, apply to a judge of a superior court to appoint, and that judge may appoint, a county or superior



rior court judge to be arbitrator, and in such case the judge so appointed shall be the arbitrator for the purposes aforesaid.

(2) The arbitrator shall proceed to ascertain such com- Procedure.  
pensation in such way as he deems best, and, except as  
hereinafter provided, his award is final and conclusive. Award.  
R.S., c. 170, s. 220.

*Determining Compensation.*

**224.** (1) The arbitrator, in deciding on such value or Increased  
compensation, shall take into consideration the increased value of  
value, beyond the increased value common to all lands in the remaining  
locality, that will be given to any lands of the opposite lands to be  
party through or over which the railway will pass, by reason considered.  
of the passage of the railway through or over the same or  
by reason of the construction of the railway, and shall set  
off such increased value that will attach to the said lands  
against the inconvenience, loss or damage that might be  
suffered or sustained by reason of the company taking  
possession of or using the said lands.

(2) The date of the deposit of the plan, profile and book Date of  
of reference with the registrar of deeds shall be the date compensa-  
with reference to which such compensation or damages shall tion fixed.  
be ascertained, but if the company does not actually acquire  
title to the lands within one year from the date of such  
deposit then the date of such acquisition shall be the date  
with reference to which such compensation or damages shall  
be ascertained.

(3) The arbitrator may include in the award an allow- Interest  
ance for interest on the compensation or damages from the may be  
date of deposit of the plan, profile and book of reference allowed.  
with the registrar of deeds or for such shorter time as he  
deems proper. R.S., c. 170, s. 221.

**225.** In mitigation of any injury or damage caused or Company  
likely to be caused to any lands by the exercise of the com- may offer  
pany's powers, the company may, by its notice of expro- easement,  
priation or by subsequent notice filed with the arbitrator, etc.  
and served upon the opposite party, prior to the close of  
the hearing before the arbitrator, undertake to abandon  
or grant to the owner of the above mentioned lands or  
the party interested therein any portion of the company's  
lands, or the lands being taken, or any easement, servitude  
or privilege over or in respect of the same, or to construct  
and maintain any work for the benefit of such owner or  
person interested, and if such owner or person interested,  
by writing filed with the arbitrator, consents to accept

what is so undertaken, or if the arbitrator approves thereof in the award, such undertaking is binding upon the company, and the compensation or damages shall be fixed in view of what is so undertaken, and the undertaking may be enforced by the Board, or damages may be recovered for the breach thereof in any court of competent jurisdiction. R.S., c. 170, s. 222.

### *Costs of Arbitration.*

Costs, how  
disposed of.

**226.** (1) The costs of the arbitration are in the discretion of the arbitrator and shall be paid by the party against whom he allows the same and it is the duty of the arbitrator to state in his award whether the whole or any part of the costs are allowed and by whom the same are to be paid.

Taxation.

(2) The amount of the costs, if not agreed upon, may be taxed by the proper taxing officer for the taxation of costs of an action or suit tried before the judge who acted as arbitrator, and appeal may be taken from such taxing officer as in the case of the costs of such an action or suit.

No fees.

(3) The arbitrator is not entitled to any fee or reward for his services as arbitrator, but shall be paid, as part of the costs of the arbitration, all his actual necessary and reasonable travelling and other expenses incurred in or in connection with the arbitration. R.S., c. 170, s. 223.

Expenses.

### *Proceedings of Arbitrator.*

Examina-  
tion by  
arbitrator.

**227.** The arbitrator shall examine on oath or solemn affirmation such witnesses as appear before him, but no more than three expert or opinion witnesses shall be called in behalf of any party; the arbitrator may by consent of the parties decide the matter upon view or inspection of the property without examining witnesses, but any party or his representative may in such case be permitted to point out and explain such things as seem material to the case. R.S., c. 170, s. 224.

Powers of  
arbitrator.

**228.** (1) The arbitrator may in any case with respect to such arbitration

Entry.

(a) enter upon and inspect any land, place, building, works or other thing, being the property of or under the control of the company or the opposite party, the entry or inspection of which appears to him requisite;

Inspection.

(b) inspect any works, structure, rolling stock or property of the company;

(c) require the production of all books, papers, plans, specifications, drawings and documents relating to the matter before him; and Production.

(d) administer oaths, affirmations or declarations. Oaths.

(2) He has the like power in summoning witnesses and enforcing their attendance and compelling them to give evidence and produce books, papers or things which they are required to produce as is vested in any court in civil cases. Compelling witnesses.

(3) The persons attending and giving evidence at any such arbitration are entitled to the like fees and allowances for so doing as if summoned to attend before the Exchequer Court. Witnesses' fees.

(4) The provisions hereinbefore contained with respect to the production before the Board of books and papers that may tend to criminate the persons producing them apply to persons attending and giving evidence at any such arbitration. R.S., c. 170, s. 225. Incriminating papers.

**229.** (1) The arbitrator shall take down in writing the evidence brought before him, unless either party requires that it be taken by a stenographer; in which case a stenographer shall be named by the arbitrator, unless the parties agree upon one. Notes of evidence.

(2) The stenographer shall be sworn before the arbitrator before entering upon his duties. Stenographer.

(3) The expense of such stenographer, if not arranged by agreement between the parties, shall form part of the costs of the arbitration. R.S., c. 170, s. 226. His expenses.

**230.** (1) After making the award, the arbitrator shall forthwith notify the parties that the award has been made, and shall forthwith deliver or transmit by registered post the award and the depositions, exhibits and all other papers connected with the arbitration to the clerk of the court, to be filed with the records of the said court. Notice of award to be given.  
Award, etc., to be filed.

(2) The notice of the making of the award may be given by registered letter addressed to the parties at their usual or last known post office addresses, or addressed in care of their representatives, if any, who appeared for them in the arbitration proceedings. R.S., c. 170, s. 227. How notice to be given.

### *Preventing Delay.*

**231.** After the making of the application constituting him arbitrator, or in the case of appointment by order of a judge of a superior court after the receipt of such order or a Arbitrator to proceed speedily.



Directions to prevent delay.

copy thereof, the arbitrator shall proceed with and complete the arbitration and award as speedily as possible, having regard to the interests of the parties, and he may give any directions respecting the proceedings which he deems proper to prevent delay. R.S., c. 170, s. 228.

Death or delay of arbitrator.

**232.** (1) If the arbitrator dies before the award is made, or is incapacitated, disqualified or unable to act, either party may, on six days' notice to the opposite party, apply to a judge of the superior court to appoint, and such judge shall appoint, any county or superior court judge to be arbitrator in the place of the arbitrator who has died, become incapacitated, disqualified or unable to act.

Application to court or judge.

Proceedings not to be repeated.

(2) The proceedings are not in any such case required to be recommenced or repeated.

Costs.

(3) The cost of applications and proceedings under this section shall form part of the costs of the arbitration proceedings. R.S., c. 170, s. 229.

*Impeaching Award.*

Award not invalidated by want of form.

**233.** (1) No award is invalidated by reason of any want of form or other technical objection, if the requirements of this Act have been substantially complied with, and if the award states clearly the sum awarded, and the lands or other property, right or privilege for which such sum is to be the compensation.

Payee need not be named.

(2) The person to whom the sum is to be paid need not be named in the award. R.S., c. 170, s. 230.

Arbitrator not disqualified by—

Opinion;  
Kindred.

**234.** If the arbitrator is not himself personally interested in the amount of the compensation he shall not be disqualified because he has previously expressed an opinion as to the amount of compensation or because he is related or of kin to any shareholder of the company. R.S., c. 170, s. 231.

*Appeal from Award.*

Appeal from award.

**235.** (1) Within one month after receiving from the arbitrator or from the opposite party a written notice of the making of the award, the company may, where the award exceeds six hundred dollars, and any other party may, where such party in his notice of appeal claims more than six hundred dollars or objects to some easement or other thing approved by the arbitrator without his consent as hereinbefore provided, appeal from the award upon any question of law or fact, or upon any other ground of objection,



objection, to a superior court, or to the court of last resort of the province in which the lands lie, if a judge of a superior court has been constituted arbitrator.

(2) Where the award is less than six hundred dollars the company or the opposite party may, within the time limited by this section, appeal from the award upon any question of law or upon any question of mistake appearing on the face of the proceedings, to a superior court or to the court of last resort as the case may be; and upon the hearing of the appeal such court shall decide any question of fact upon the evidence taken before the arbitrator as in the case of original jurisdiction.

Where award less than six hundred dollars.

(3) The court may, where, from any other evidence it deems proper to admit, it is clearly satisfied that injustice has been done, set aside the award or remit it to the arbitrator for reconsideration with such directions as it deems proper.

Court may admit other evidence.

(4) Upon such appeal the practice and proceedings shall be, as nearly as may be, the same as upon an appeal from the decision of an inferior court to the said superior court, subject to any general rules or orders from time to time made by the court to which such appeal lies in respect to such appeals.

Practice and proceedings on appeal.

(5) The decision of such court is not, except where the amount awarded by or claimed in the appeal from such decision exceeds five thousand dollars, subject to further appeal, and except as herein provided there shall be no appeal from, or proceedings had to impeach or set aside any award made under this Act. R.S., c. 170, s. 232.

No further appeal, etc.

*Paying Money into Court, etc.*

**236.** (1) Whenever

- (a) the company has reason to fear any claim, mortgage, hypothec, or encumbrance;
- (b) any person to whom the compensation or annual rent, or any part thereof, is payable, refuses to execute a proper conveyance;
- (c) the person entitled to claim the compensation or annual rent cannot be found, or is unknown to the company; or
- (d) for any other reason, the company deems it advisable;

Payment of compensation into court in some cases.

the company may pay such compensation into court, with the interest thereon for six months, and may deliver to the clerk or prothonotary of such court an authentic copy of the conveyance, or of the award or agreement, if there is no conveyance.

Title. (2) Such conveyance, or award or agreement, shall thereafter be deemed to be the title of the company to the land therein mentioned. R.S., c. 170, s. 233.

Lands not in Quebec. **237.** (1) Where the lands are situated elsewhere than in the Province of Quebec, a notice of such payment and delivery, in such form and for such time as the court appoints, shall be inserted in a newspaper, published in the county in which the lands are situated, or, if there is no newspaper published in the county, then in the official gazette of the province, and also in a newspaper published in the nearest county thereto in which a newspaper is published.

Publication of notice. (2) Such notice shall state that the conveyance, agreement or award constituting the title of the company is obtained under the authority of this Act, and shall call upon all persons claiming an interest in or entitled to the lands, or any part thereof, to file their claims to the compensation, or any part thereof. R.S., c. 170, s. 234.

What notice shall state. **238.** Where the lands are situated in the Province of Quebec, the notice shall be published as required in cases of confirmation of title, and the registrar's certificate shall be procured and filed as in such cases. R.S., c. 170, s. 235.

Lands in Quebec. **239.** The compensation for any lands that may be taken without the consent of the owner stands in the stead of such lands; and any claim to or encumbrance upon the said lands, or any portion thereof, is, as against the company, converted into a claim to the compensation, or to a like proportion thereof; and the company is responsible accordingly, whenever it has paid such compensation or any part thereof to a person not entitled to receive the same, saving always its recourse against such person; but nothing herein contained prejudices any owner's right to a lien for unpaid purchase money unless such compensation is actually paid to such owner or paid into court pursuant to this Act. R.S., c. 170, s. 236.

Compensation in place of land. Encumbrances. **240.** (1) All such claims filed shall be received and adjudicated upon by the court, and the adjudication thereon forever bars all claims to the land, or any part thereof, including any dower, mortgage, hypothec or encumbrance upon the same.

Lien for purchase money. (2) The court shall make such order for the distribution, payment, or investment of the compensation and for the security of the rights of all persons interested, as to right and justice and to law appertains.

(3) If the order for distribution, payment, or investment is obtained within less than six months from the payment of the compensation into court, the court shall direct a proportionate part of the interest to be returned to the company. Interest.

(4) If from any error, fault or neglect of the company, such order is not obtained until after six months have expired, the court shall order the company to pay into court, as part of the compensation, the interest for such further period as is right. For further period.

(5) The costs of the proceedings, in whole or in part, including the proper allowances to witnesses, shall be paid by the company, or by any other person, as the court orders. Costs.  
R.S., c. 170, s. 237.

*Right of Company to take Possession.*

**241.** Upon payment or legal tender of the compensation or annual rent awarded or agreed upon to the person entitled to receive the same, or upon the payment into court of the amount of such compensation, in the manner hereinbefore mentioned, the award or agreement vests in the company the power forthwith to take possession of the lands, or to exercise the right, or to do the thing for which such compensation or annual rent has been awarded or agreed upon. R.S., c. 170, s. 238. Upon payment or tender.

*Proceedings in case of Resistance.*

**242.** (1) If any resistance or forcible opposition is made by any person to the exercise by the company of any such power the judge shall upon or without notice to the opposite party as he deems proper, on proof to his satisfaction of such award or agreement and of payment or tender of the sum awarded or agreed upon or of payment thereof into court, issue his warrant to the sheriff of the district or county, or to a bailiff, as he deems most suitable, to put down such resistance or opposition, and to put the railway company in possession. Warrant.

(2) The sheriff or bailiff shall, in the execution of such warrant, take with him sufficient assistance for such purpose, and shall put down such resistance or opposition and put the company in possession. R.S., c. 170, s. 239. How executed.

**243.** Such warrant shall also be granted by the judge without such award or agreement, on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice, is necessary Warrant for immediate possession in certain cases.



for the construction or maintenance of some part of the railway with which the company is ready forthwith to proceed. R.S., c. 170, s. 240.

Procedure  
upon ap-  
plication  
for such  
warrant.

**244.** (1) The judge shall not grant any warrant under section 243, unless

Notice.

(a) ten days' previous notice of the time and place when and where the application for such warrant is to be made has been served upon the owner of the lands, or the person empowered to convey the lands or interested in the lands sought to be taken or which may suffer damage from the taking of materials sought to be taken, or the exercise of the powers sought to be exercised, or the doing of the thing sought to be done by the company, and

Deposit of  
compensa-  
tion.

(b) the company gives security to his satisfaction, by payment into court, of a sum in his estimation sufficient to cover the probable compensation and costs of the arbitration, and not less than fifty per cent above the amount offered by the company in the notice mentioned in section 218 or certified by the surveyor or engineer under section 219, whichever is larger; or, if the judge deems proper, pays the party in part and gives security for the balance.

Where  
notice  
cannot be  
served.

(2) Where for any reason service of such notice cannot be made, or cannot be made promptly, the judge may, on proof to his satisfaction of circumstances justifying it, order substitutional or other service of such notice or dispense with such notice. R.S., c. 170, s. 241.

Costs.

**245.** (1) The costs of any such application and hearing before the judge shall be borne by the company, unless the compensation awarded is not more than the company had offered to pay.

Repayment  
of deposit.

(2) No part of such deposit or of any interest thereon shall be repaid, or paid to such company, or paid to such owner or party, without an order from the judge, which he may make in accordance with the terms of the award. R.S., c. 170, s. 242.

#### *Procedure.*

To be con-  
tinued in  
court where  
commenced.

**246.** Any proceeding under the foregoing provisions of this Act relating to the ascertainment or payment of compensation or the delivery of possession of lands taken, or the putting down of resistance to the exercise of powers, shall, if commenced in a superior court having jurisdiction, be continued in such superior court, or, if the proceeding



is commenced in a county court having jurisdiction, it shall be continued in such county court; and where there are different interests in the same lands all shall as far as possible be dealt with in one proceeding. R.S., c. 170, s. 243. Different interests.

MATTERS INCIDENTAL TO CONSTRUCTION.

*Respecting Wages.*

**247.** (1) In every case in which the Parliament of Canada votes financial aid by way of subsidy or guarantee towards the cost of railway construction, all mechanics, labourers or other persons who perform labour in such construction shall be paid such wages as are generally accepted as current for competent workmen in the district in which the work is being performed; and if there is no current rate in such district, then a fair and reasonable rate. Current rate.

(2) In the event of a dispute arising as to what is the current or a fair and reasonable rate, it shall be determined by the Minister, whose decision is final. R.S., c. 170, s. 244. Minister may determine.

*Respecting Navigable Waters.*

**248.** No company shall cause any obstruction in, or impede the free navigation of any river, water, stream or canal, to, upon, along, over, under, through or across, which its railway is carried. R.S., c. 170, s. 245. Navigation not to be obstructed.

**249.** No company shall run its trains over any canal, or over any navigable water, without having first laid, nor without maintaining, such proper flooring under and on both sides of its railway track over such canal or water as is deemed by the Board sufficient to prevent anything falling from the railway into such canal or water, or upon the boats, vessels, craft, or persons navigating such canal or water. R.S., c. 170, s. 246. Bridges to be properly floored.

**250.** (1) Whenever the railway is, or is proposed to be carried over any navigable water or canal by means of a bridge, the Board may by order in any case, or by regulations, direct that such bridge shall be constructed with such span or spans of such headway and waterway, and with such opening span or spans, if any, as to the Board may seem expedient for the proper protection of navigation. Spans of headway and waterway.

(2) The Board may in like manner, if any such bridge is a draw or swing bridge, direct when, under what conditions and circumstances, and subject to what precautions, the same shall be opened and closed. R.S., c. 170, s. 247. Operation of draw.

Proceedings  
for con-  
struction of  
works in  
navigable  
waters.

**251.** (1) When the company is desirous of constructing any wharf, bridge, tunnel, pier or other structure or work, in, upon, over, under, through or across any navigable water or canal, or upon the beach, bed or lands covered with the waters thereof, the company shall, before the commencement of any such work,

Approval  
by Govern-  
or in  
Council.

(a) in the case of navigable water, not a canal, submit to the Minister of Public Works, and in the case of a canal to the Minister, for approval by the Governor in Council, a plan and description of the proposed site for such work, and a general plan of the work to be constructed, to the satisfaction of such Minister, and

Board to  
authorize.

(b) upon approval by the Governor in Council of such site and plans, apply to the Board for an order authorizing the construction of the work and with such application, transmit to the Board a certified copy of the Order in Council and of the plans and description approved thereby, and also detail plans and profiles of the proposed work, and such other plans, drawings and specifications as the Board may, in any such case, or by regulation, require.

No  
deviation.

(2) No deviation from the site or plans approved by the Governor in Council, shall be made without the consent of the Governor in Council.

Powers of  
Board.

(3) Upon any such application, the Board may

(a) make such order in regard to the construction of such work upon such terms and conditions as it may deem expedient;

(b) make alterations in the detail plans, profiles, drawings and specifications so submitted;

(c) give directions respecting the supervision of any such work; and

(d) require that such other works, structures, equipment, appliances and materials be provided, constructed, maintained, used and operated, and measures taken, as under the circumstances of each case may appear to the Board best adapted for securing the protection, safety and convenience of the public.

Company to  
construct.

(4) Upon such order being granted, the company shall be authorized to construct such work in accordance therewith.

Operation  
also to be  
authorized  
by Board.

(5) Upon the completion of any such work the company shall, before using or operating the same, apply to the Board for an order authorizing such use or operation, and if the Board is satisfied that its orders and directions have been carried out, and that such work may be used or

4646

operated

operated without danger to the public, and that the provisions of this section have been complied with, the Board may grant such order. R.S., c. 170, s. 248.

*Bridges, Tunnels and other Structures.*

**252.** (1) The Governor in Council may, upon the report of the Board, authorize or require any railway company to construct fixed and permanent bridges, or swing, draw or movable bridges, or to substitute any of such bridges for bridges existing on the line of its railway, within such time as the Governor in Council directs. Bridges.

(2) No company shall substitute any swing, draw or movable bridge for any fixed or permanent bridge already built and constructed without the previous consent of the Governor in Council. R.S., c. 170, s. 249. Consent of Governor in Council.

**253.** (1) Every bridge, tunnel or other erection or structure, over, through or under which any railway passes, shall be so constructed and maintained as to afford, at all times, an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beams, members, or portions of that part of such bridge, tunnel, erection or structure that is directly over the space liable to be traversed by such car in passing thereunder. Headway over cars.

(2) The Board may, if necessary, require any existing bridge, tunnel, or other erection or structure to be reconstructed or altered, within such time as it may order, so as to comply with the requirements mentioned in subsection (1); and any such bridge, tunnel, or other erection or structure, when so reconstructed or altered shall thereafter be maintained accordingly. Powers of Board to order alteration.

(3) Except by leave of the Board the space between the rail level and such beams, members or portions of any such structure, constructed after the 1st day of February, 1904, shall in no case be less than twenty-two feet six inches. Space above rail.

(4) If, in any case, it is necessary to raise, reconstruct or alter any bridge, tunnel, erection or structure not owned by the company, the Board, upon application of the company, and upon notice to all parties interested, or without any application, may make such order, allowing or requiring such raising, reconstruction or alteration, and upon such terms and conditions as to the Board appear just and proper and in the public interest. Structures not owned by company.



Board may  
exempt  
certain  
structures.

(5) The Board may exempt from the operation o' this section any bridge, tunnel, erection, or structure, over, through or under which it is satisfied no trains, except such as are equipped with air brakes, are run. R.S., c. 170, s. 250.

Where  
length  
exceeds  
18 feet.

**254.** (1) The company shall not, within the limits of any incorporated city or town, or where its line of railway crosses a highway, whether within or without such limits, commence the construction or reconstruction of, or any material alteration in any bridge, tunnel, viaduct, trestle, or other structure, through, over, or under which the company's trains are to pass, the span, or proposed span or spans, or length of which exceeds eighteen feet, until leave therefor has been obtained from the Board; but the company may, without such leave, commence such construction, reconstruction or alteration at any place beyond the said limits, if such construction, reconstruction or alteration is not at a highway crossing and is in accordance with standard specifications and plans approved by the Board.

Leave or  
approval  
of Board.

Company  
shall submit  
plans, etc.  
as required  
by the  
Board.

(2) Upon any application to the Board for such leave, the company shall submit to the Board the detail plans, profiles, drawings and specifications of any such work proposed to be constructed, and such other plans, profiles, drawings and specifications as the Board may in any case, or by regulation, require.

Powers of  
Board.  
Terms.

(3) Upon any such application the Board may

Alterations.

(a) make such order with regard to the construction of such work, and upon such terms and conditions, as it deems expedient;

Super-  
vision.

(b) make alterations in the detail plans, profiles, drawings and specifications so submitted;

Other  
works.

(c) give directions respecting the supervision of any such work; and

(d) require that such other works, structures, equipment, appliances and materials be provided, constructed, maintained, used, and operated, and that such measures be taken, as, under the circumstances of each case, may appear to the Board best adapted for securing the protection, safety and convenience of the public.

Company  
may con-  
struct.

(4) Upon such order being granted the company shall be authorized to construct such works in accordance therewith.

Board to  
authorize  
operation.

(5) Upon the completion of any such work the company shall, before using or operating the same, apply to the Board for an order authorizing such use or operation, and the Board may grant such order if it is satisfied that its orders and directions have been carried out, and that such



work may be used or operated without danger to the public, and that the provisions of this section have been complied with.

(6) Upon the application of any municipality or municipalities interested, the Board may, where it deems it reasonable and proper, require the company to construct under or alongside of its track upon any bridge being constructed, reconstructed or materially altered by the company a passageway for the use of the public either as a general highway or as a footway, the additional cost to the company of constructing, maintaining and renewing which, as fixed by or under the direction of the Board, shall be paid by the municipality or municipalities as the Board may direct, and the Board may impose any terms or conditions as to the use of such passageway or otherwise which it deems proper. R.S., c. 170, s. 251.

Passage-way for public.

*Crossings and Junctions with other Railways.*

**255.** (1) The railway lines or tracks of any railway company shall not cross or join or be crossed or joined by or with any railway lines or tracks other than those of such company, whether otherwise within the legislative authority of the Parliament of Canada or not, until leave therefor has been obtained from the Board as hereinafter provided.

Leave of Board.

(2) Upon any application for such leave the applicant shall submit to the Board a plan and profile of such crossing or junction, and such other plans, drawings and specifications as the Board may, in any case, or by regulation, require.

Plans, etc. to be submitted.

(3) The Board may, by order,

Powers of Board.

(a) grant such application on such terms as to protection and safety as it deems expedient;

(b) change the plan and profile, drawings and specifications so submitted, and fix the place and mode of crossing or junction;

(c) direct that one line or track or one set of lines or tracks be carried over or under another line or track or set of lines or tracks;

(d) direct that such works, structures, equipment, appliances and materials be constructed, provided, installed, maintained, used or operated, watchmen or other persons employed, and measures taken, as under the circumstances appear to the Board best adapted to remove and prevent all danger of accident, injury or damage;

- (e) determine the amount of damage and compensation, if any, to be paid for any property or land taken or injuriously affected by reason of the construction of such works;
- (f) give directions as to supervision of the construction of the works; and
- (g) require that detail plans, drawings and specifications of any works, structures, equipment or appliances required, shall, before construction or installation, be submitted to and approved by the Board.

No operation until authorized.

(4) No trains shall be operated on the lines or tracks of the applicant over, upon or through such crossing or junction until the Board grants an order authorizing such operation.

Board shall see to compliance.

(5) The Board shall not grant such last mentioned order until satisfied that its orders and directions have been carried out, and that the provisions of this section have been complied with. R.S., c. 170, s. 252.

Connections of intersecting railway lines.

**256.** (1) Where the lines or tracks of one railway are intersected or crossed by those of another, or upon any application for leave to make any intersection or crossing, or in any case in which the tracks or lines of two different railways run through or into the same city, town or village, the Board may, upon the application of one of the companies, or of a municipal corporation or other public body, or of any person or persons interested, order that the lines or tracks of such railways shall be so connected, at or near the point of intersection or crossing or in or near such city, town or village, as to admit of the safe and convenient transfer or passing of engines, cars and trains, from the tracks or lines of one railway to those of another, and that such connection shall be maintained and used.

Costs and terms of connections.

(2) In and by the order for such connection, or from time to time subsequently, the Board may determine by what company or companies, or other corporations or persons, and in what proportions, the cost of making and maintaining any such connections shall be borne, and upon what terms traffic shall be thereby transferred from the lines of one railway to those of another.

Connections between intersecting provincial and Dominion railways.

(3) Where the lines or tracks of any railway within the legislative authority of a province intersect the lines or tracks, or run through or into the same city, town or village as the lines or tracks, of a railway within the legislative authority of the Parliament of Canada, and it is desired by the company owning or operating either of such railways,

or by any municipal corporation, or other public body, or any person interested, that the lines or tracks of such railways should be connected, so as to admit of the safe and convenient transfer of engines, cars and trains from the lines or tracks of one of such railways to those of the other, and for the reasonable receiving, forwarding, delivering and interswitching of traffic between such railways, and there exists in the province in which such connection is desired a provincial railway, public utilities, or other board, commission or body, having power to require such connection between two railways within the legislative authority of such province, hereinafter in this subsection called the provincial board, proceedings may be taken in accordance with the following provisions:

Proceedings.

- (a) either of such companies, or any municipal corporation, or other public body, or any person interested, may file with the Secretary of the Board, and with the secretary of the provincial board, an application for an order that such connection should be required to be made, together with evidence of service of such application upon the railway companies interested or affected; and, where the application is not made by the municipality, upon the head of the municipal corporation within which the proposed connection is situate; Application for order.
- (b) after the receipt of the said application, the Board and the provincial board may, by joint session or conference, in conformity with the practice established or adopted by them, hear and determine the said application, and may order that the lines or tracks of such railways be so connected at or near the point of intersection, or in or near such city, town, or village, upon such terms and conditions, and subject to such plans, as they may deem proper; Hearing of application by Board and provincial authorities.
- (c) the Chief Commissioner and the chairman of the provincial board of any province having concurrent legislation carrying into effect the purposes and objects of this subsection, may make rules of procedure and practice covering the making of such applications and the hearing and the disposition thereof; Rules of procedure.
- (d) the Chief Commissioner and the chairman of the provincial board may assign or appoint from each board the members comprising the joint board that may be required to sit for the hearing and determining of such applications as they arise; and Constitution of joint boards.



Enforcement of order.

(e) any order aforesaid may be made a rule of the Exchequer Court and shall be enforced in like manner as any rule, order, or decree of such court. R.S., c. 170, s. 253.

Safety appliances at rail level crossings.

**257.** The Board may order the adoption and use at any such crossing or junction at rail level, of such interlocking switch, derailing device, signal system, equipment, appliances and materials, as in the opinion of the Board renders it safe for engines and trains to pass over such crossing or junction without being brought to a stop. R.S., c. 170, s. 254.

### *Highway Crossings, etc.*

Railway on highway.

Leave.

Compensation.

Consent of municipality.

Highway to be kept open.

Rights saved.

Application for crossings.

**258.** (1) The railway of the company may, if leave therefor is first obtained from the Board as hereinafter authorized, but shall not without such leave, be carried upon, along or across any existing highway; the compensation, if any, payable by the company to adjacent or abutting landowners shall be determined under the arbitration sections of this Act in so far as such sections are applicable, and the Board shall not grant leave to any company to carry any street railway or tramway, or any railway operated or to be operated as a street railway or tramway, along any highway that is within the limits of any city or incorporated town, until the company has first obtained the consent therefor by a by-law of the municipal authority of such city or incorporated town; and where leave is obtained to carry any railway along a highway the Board may require the company to make compensation to the municipality if the Board deems proper, such compensation to be determined under the arbitration sections of this Act, in so far as such sections are applicable.

(2) The company shall, before obstructing any such highway by its works, turn the highway so as to leave an open and good passage for carriages, and, on completion of the works, restore the highway to as good a condition as nearly as possible as it originally had.

(3) Nothing in this section deprives any such company of rights conferred upon it by any Special Act of the Parliament of Canada, or amendment thereof, passed prior to the 12th day of March, 1903. R.S., c. 170, s. 255; 1930, c. 36, s. 2.

**259.** (1) Upon any application for leave to construct a railway upon, along or across any highway, or to construct a highway along or across any railway, the applicant shall submit to the Board a plan and profile showing the portion of the railway and highway affected.



(2) The Board may, by order, grant such application in whole or in part and upon such terms and conditions as to protection, safety and convenience of the public as the Board deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, or that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction, in the opinion of the Board, arising or likely to arise in respect of the granting of the application in whole or in part in connection with the crossing applied for, or arising or likely to arise in respect thereof in connection with any existing crossing.

Powers of Board.

Protection, etc.

(3) When the application is for the construction of the railway, upon, along or across a highway, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, including compensation to be paid to adjacent or abutting landowners as provided by section 258, apply to the land exclusive of the highway crossing, required for the proper carrying out of any order made by the Board.

As to land required.

(4) The Board may exercise supervision in the construction of any work ordered by it under this section, or may give directions respecting such supervision.

Supervision.

(5) When the Board orders the railway to be carried over or under the highway, or the highway to be carried over or under the railway, or any diversion temporarily or permanently of the railway or the highway, or any works to be executed under this section, the Board may direct that detailed plans, profiles, drawings and specifications be submitted to the Board.

Detailed plans, etc., in certain cases.

(6) The Board may make regulations respecting the plans, profiles, drawings and specifications required to be submitted under this section. R.S., c. 170, s. 256.

Regulations by Board.

**260.** (1) Where a railway is already constructed upon, along or across any highway, the Board may, of its own motion, or upon complaint or application, by or on behalf of the Crown, or any municipal or other corporation, or any person aggrieved, order the company to submit to the Board, within a specified time, a plan and profile of such portion of the railway, and may cause inspection of such portion, and may inquire into and determine all matters

Powers of Board as to existing crossings.

Protection,  
etc.

and things in respect of such portion, and the crossing, if any, and may make such order as to the protection, safety and convenience of the public as it deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, and that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction in the opinion of the Board arising or likely to arise in respect of such portion or crossing, if any, or any other crossing directly or indirectly affected.

As to land  
required.

(2) When the Board of its own motion, or upon complaint or application, makes any order that a railway be carried across or along a highway, or that a railway be diverted, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board.

Supervision  
by Board.

(3) The Board may exercise supervision in the construction of any work ordered by it under this section, or may give directions respecting such supervision. R.S., c. 170, s. 257.

Preventing  
obstruction  
of view.

**261.** The Board has, without limiting any general power elsewhere conferred, power, for the purpose of diminishing the danger at any highway crossing with any railway heretofore or hereafter constructed, to order

(a) that any trees, buildings, earth or other obstruction to the view, that may be upon the railway, or the highway or any trees on any adjoining lands, shall be removed, and

(b) that nothing obstructing the view shall be placed at such crossing or nearer thereto than the Board designates;

and for any such purpose the Board has power to authorize or direct the expropriation of any land, the acquirement of any easement and the doing of anything deemed necessary, and has power to fix and order payment of such compensation as it deems just. R.S., c. 170, s. 258.

Apportion-  
ment of  
cost of  
protection,  
etc.

**262.** Notwithstanding anything in this Act, or in any other Act, the Board may, subject to the provisions of section 263, order what portion, if any, of cost is to be borne

4654

respectively

respectively by the company, municipal or other corporation, or person in respect of any order made by the Board, under section 259, 260 or 261, and such order is binding on and enforceable against any railway company, municipal or other corporation or person named in such order. R.S., c. 170, s. 259.

**263.** In any case where a railway is constructed after the 19th day of May, 1909, the company shall, at its own cost and expense, unless and except as otherwise provided by agreement, approved by the Board, between the company and a municipal or other corporation or person, provide, subject to the order of the Board, all protection, safety and convenience for the public in respect of any crossing of a highway by the railway. R.S., c. 170, s. 260.

When railway to bear whole cost.

**264.** The Board may order any company to erect over its railway at or near, or in lieu of any highway crossing at rail level, a foot bridge or foot bridges, for the purpose of enabling persons, passing on foot along such highway, to cross the railway by means of such bridge or bridges. R.S., c. 170, s. 261.

Foot bridges.

**265.** (1) The sums heretofore or hereafter appropriated and set apart to aid actual construction work for the protection, safety and convenience of the public in respect of highway crossings of railways at rail level shall be placed to the credit of a special account to be known as "The Railway Grade Crossing Fund," and shall (insofar as not already applied) be applied by the Board, subject to the limitations hereinafter set out, solely towards the cost, not including that of maintenance and operation, of actual construction work for the protection, safety and convenience of the public in respect of crossings (railway crossings of highways or highway crossings of railways) at rail level in existence on the 1st day of April, 1909, and in respect of existing crossings (railway crossings of highways or highway crossings of railways) at rail level, constructed after the 1st day of April, 1909, but the Board shall not apply any moneys out of The Railway Grade Crossing Fund towards the cost of the actual construction work, for the protection, safety and convenience of the public in respect of any existing crossing (railway crossing of a highway or highway crossing of a railway), at rail level, constructed after the 1st day of April, 1909, unless and except an agreement, approved of by the Board, has been entered into between the company and a municipal or other corporation or person by which agreement the municipal or other corporation or person has agreed with the company to bear a portion of

Railway Grade Crossing Fund.



the cost of the actual construction work for the protection, safety and convenience of the public in respect of such crossing (railway crossing of a highway or highway crossing of a railway), at rail level, constructed after the 1st day of April, 1909.

Apportionment of money by Board.

(2) The total amount of money, to be applied by the Board out of The Railway Grade Crossing Fund, under the provisions of this section, in the case of any one crossing, where the cost of the actual construction work in providing the protection, safety and convenience for the public does not exceed one hundred and fifty thousand dollars, shall not exceed forty per cent of such cost, and the total amount of money, to be applied by the Board out of The Railway Grade Crossing Fund, under the provisions of this section, in the case of any one crossing, where the cost of the actual construction work in providing the protection, safety and convenience of the public exceeds one hundred and fifty thousand dollars shall not exceed forty per cent of such cost, and shall not in any case exceed one hundred and fifty thousand dollars.

Provincial contribution to Fund.

(3) In case any province contributes towards The Railway Grade Crossing Fund, the Board may apportion, direct and order payment out of the amount so contributed by such province for the purpose of the said fund, subject to any conditions and restrictions made and imposed by such province in respect of its contribution.

"Crossing" defined.

(4) In this section "crossing," means any railway crossing of a highway, or any highway crossing of a railway, at rail level, and every manner of construction of the railway or of the highway by the elevation or the depression of the one above or below the other, or by the diversion of the one or the other and any other work ordered by the Board to be provided as one work of protection, safety and convenience for the public in respect of one or more railways of as many tracks crossing or so crossed as in the discretion of the Board determined.

Grant for railway level crossings.

(5) The grants or the unexpended portions or moneys thereof made under the provisions of the Acts, chapter 32 of the statutes of 1909, chapter 50 of the statutes of 1914, and chapter 30 of the statutes of 1919, of two hundred thousand dollars each year for twenty consecutive years from the 1st day of April, 1909, may, from and after the 11th day of June, 1928, notwithstanding any provision of any of the said Acts, be expended to aid actual construction work for the protection, safety and convenience of the public in respect of crossings (railway crossings of highways or highway crossings of railways) at rail level in existence



on the 1st day of April, 1909, and in respect of existing crossings (railway crossings of highways or highway crossings of railways) at rail level, constructed after the 1st day of April, 1909, subject to the terms and conditions contained in this section.

(6) The sum of five hundred thousand dollars each year for two consecutive years from the 1st day of April, 1949, and the sum of one million dollars each year for six consecutive years from the 1st day of April, 1951, shall be appropriated and set apart from the Consolidated Revenue Fund of Canada to aid actual construction work for the protection, safety and convenience of the public in respect of highway crossings of railways at rail level in accordance with the provisions of this section. 1928, c. 43, s. 1; 1950, c. 20, ss. 1, 2.

Appropriation for highway crossings.

**266.** Unless otherwise directed or permitted by the Board, the highway at any overhead railway crossing shall not at any time be narrowed by means of any abutment or structure to a width less than twenty feet, nor shall the clear headway above the surface of the highway at the central part of any overhead structure, constructed after the 1st day of February, 1904, be less than fourteen feet. R.S., c. 170, s. 263.

Overhead crossings.

Width and height of highway.

**267.** Every structure by which any railway is carried over or under any highway or by which any highway is carried over or under any railway, shall be so constructed, and, at all times, be so maintained, as to afford safe and adequate facilities for all traffic passing over, under or through such structure. R.S., c. 170, s. 264.

Facilities for traffic.

**268.** Whenever the railway crosses any highway at rail level, whether the level of the highway remains undisturbed or is raised or lowered to conform to the grade of the railway, the top of the rail may, when the works are completed, unless otherwise directed by the Board, rise above or sink below the level of the highway to the extent of one inch without being deemed an obstruction. R.S., c. 170, s. 265.

When rail level not obstruction.

**269.** (1) The inclination of the ascent or descent, as the case may be, of any approach by which any highway is carried over or under any railway, or across it at rail level, shall not, unless the Board otherwise directs, be greater than one foot of rise or fall for every twenty feet of the horizontal length of such approach.

Inclination of approach.

Fencing  
approaches.

(2) Such fences or other structures as the Board may by order or regulation direct shall be erected and maintained on the sides of the approaches mentioned in subsection (1). R.S., c. 170, s. 266; 1947, c. 70, s. 4.

Signboards  
at level  
crossings.

**270.** (1) Signboards at every highway crossed at rail level by any railway, shall be erected and maintained at each crossing, and shall have the words *Railway Crossing* painted on each side thereof in letters at least six inches in length.

In Quebec.

(2) In the Province of Quebec such words shall be in both the English and the French languages. R.S., c. 170, s. 267.

*Drainage and Power, Mining and Irrigation Works.*

Ditches,  
drains and  
flumes.

**271.** The company shall in constructing the railway make and maintain suitable water pipes, flumes, ditches and drains along each side of, and across and under the railway, to connect with water pipes, flumes, ditches, drains, drainage works and watercourses upon the lands through which the railway runs, so as to afford sufficient outlet to drain and carry off the water, or to convey the water supply, and so that the then natural, artificial, or existing drainage, or water supply, of the said lands shall not be obstructed or impeded by the railway. R.S., c. 170, s. 268.

If drainage  
insufficient.

**272.** (1) Whenever

(a) any lands are injuriously affected by reason of the drainage upon, along, across, or under the railway being insufficient to drain and carry off the water from such lands;

Or municipi-  
pality  
desires.

(b) any municipality or landowner desires to obtain means of drainage, or the right to lay water pipes or other pipes, temporarily or permanently, through, along, upon, across or under the railway or any works or land of the company; or

Or company  
desires.

(c) the railway company desires to obtain means of drainage, or the right to lay water pipes or other pipes, temporarily or permanently, through, along, upon, across or under any lands adjoining or near the railway;

Board may  
order or  
permit  
drainage  
or laying  
of pipes.

the Board may, upon the application or complaint of the municipality or landowner, or of the company, order or permit the company to construct such drainage or lay such pipes, and may require the applicant to submit to the Board a plan and profile of the portion of the railway or lands to be affected, or may direct an inspecting engineer,

or such other person as it deems advisable to appoint, to inspect the locality in question, and, if expedient, there hold an inquiry as to the necessity or requirements for such drainage or pipes, and to make a full report thereon to the Board.

(2) The Board may upon such report, or in its discretion, order how, where, when, by whom, and upon what terms and conditions, such drainage may be effected, or pipes laid, constructed and maintained, having due regard to all proper interests, and may fix the compensation, if any, that should be paid to any owner injuriously affected or may direct the compensation, if any, to be determined under the arbitration sections of this Act.

(3) An order of the Board is not required in the cases in which water pipes or other pipes are to be laid or maintained under the railway, with the consent of the railway company in accordance with the general regulations, plans or specifications adopted or approved by the Board for such purposes. R.S., c. 170, s. 269.

**273.** (1) Whenever by virtue of any Act of any province through which the railway runs, proceedings may be had or taken by any municipality or landowner for any drainage, or drainage works, upon and across the property of any other landowner in such province, the like proceedings may, at the option of such municipality or landowner, be had or taken by such municipality or landowner for drainage, or drainage works, upon and across the railway and lands of the company, in the place of the proceedings before the Board provided in section 272.

(2) In case of any such proceedings, the drainage laws of the province, subject to any previous order or direction of the Board made or given with respect to drainage of the same lands, apply to the lands of the company upon or across which such drainage is required, to the same extent as to the lands of any landowner of such province; but the company has the option of constructing the portion of any drain, or drainage work, required to be constructed upon, along, under or across its railway or lands.

(3) In the event of the company not exercising such option, and completing such work within a reasonable time, and without any unnecessary delay, such work may be constructed or completed in the same manner as any other portions of such work are provided under the laws of such province to be constructed.



Approval  
of Board.

(4) Notwithstanding anything in this section, no drainage works shall be constructed or reconstructed upon, along, under or across the railway or lands of the company until the character of such works, or the specifications or plans thereof, have been first submitted to and approved of by the Board.

Costs.

(5) The proportion of the cost of the drain, or drainage works, across or upon the railway, to be borne by the company, shall, in all such cases, be based upon the increase of cost of such work caused by the construction and operation of the railway. R.S., c. 170, s. 270.

Power,  
mining and  
irrigation  
works.

**274.** (1) When any person having authority to create, develop, enlarge or change any water-power, or any electrical or power development by means of water, or to develop and operate mineral claims or mines, or to use water for irrigation purposes, desires for any such purpose to carry any canal, tunnel, flume pipe, ditch or wire across, over or under any railway, and is unable to agree with the railway company as to the terms and conditions upon which the same may be so carried over, under or across the said railway, an application may be made to the Board for leave to construct the necessary works.

Application  
to Board.

Plan and  
profile.

(2) Upon such application the applicant shall submit to the Board a plan and profile of the railway at the point where it is desired to make such crossing, and a plan or plans showing the proposed method of carrying such canal, tunnel, flume pipe, ditch or wire across, over or under the said railway, and such other plans, drawings and specifications as the Board in any case or by any regulation requires.

Terms of  
order.

(3) The Board may, by order, grant such application on such terms and conditions as to protection and safety, payment of compensation or otherwise, as it deems just and proper, may change the plans, profiles, drawings and specifications so submitted, and fix the place and mode of crossing and may give directions as to the method in which the works are to be constructed and as to supervision of the construction of the works and the maintenance thereof, and order that detailed plans, drawings and specifications of any works, structures, equipment or appliances required shall before construction or installation be submitted to and approved by the Board. R.S., c. 170, s. 271.

#### *Farm Crossings.*

Farm  
crossings.

**275.** (1) Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway for farm purposes.



(2) Live stock, in using such crossings when at rail level, Live stock. shall be in charge of some competent person, who shall take all reasonable care and precaution to avoid accidents. R.S., c. 170, s. 272.

**276.** (1) The Board may, upon the application of any landowner, order the company to provide and construct a suitable farm crossing across the railway, wherever in any case the Board deems it necessary for the proper enjoyment of his land, and safe in the public interest. Necessary crossings may be ordered by Board.

(2) The Board may order and direct how, when, where, by whom, and upon what terms and conditions, such farm crossing shall be constructed and maintained. R.S., c. 170, s. 273. Terms and conditions.

*Fences, Gates and Cattle-guards.*

**277.** (1) The company shall erect and maintain upon the railway Company shall erect.

(a) fences of a minimum height of four feet six inches on each side of the railway; Fences.

(b) swing gates in such fences at farm crossings of the minimum height aforesaid, with proper hinges and fastenings; and Gates.

(c) cattle-guards, on each side of the highway, at every highway crossing at rail level with the railway. Cattle-guards.

(2) The railway fences at every such highway crossing shall be turned into the respective cattle-guards on each side of the highway. To be joined.

(3) Such fences, gates and cattle-guards shall be suitable and sufficient to prevent cattle and other animals from getting on the railway lands. To be suitable.

(4) The Board may, upon application made to it by the company, relieve the company, temporarily or otherwise, from erecting and maintaining such fences, gates and cattle-guards where the railway passes through any locality in which, in the opinion of the Board, such works and structures are unnecessary. Exemption by Board.

(5) Where the railway is being constructed through enclosed lands, the company shall, by fencing its right of way before any existing fences are taken down or by other effective means, prevent cattle or other animals escaping from or getting upon such enclosed lands or from one enclosure to another or upon the property of the company by reason of such construction or of any act or thing done by the company, its contractors, agents or employees. R.S., c. 170, s. 274. Duty of company while constructing.

*Gates to be Kept Closed.*

Gates  
to be  
closed.

**278.** The persons for whose use farm crossings are furnished shall keep the gates at each side of the railway closed, when not in use. R.S., c. 170, s. 275.

## OPENING RAILWAY FOR TRAFFIC.

*Inspection and Leave of Board.*

Leave of  
Board for  
opening  
railway.

**279.** (1) No railway, nor any portion thereof, shall be opened for the carriage of traffic, other than for the purposes of the construction of the railway by the company, until leave therefor has been obtained from the Board, as hereinafter provided.

Application  
therefor.

(2) When the company is desirous of so opening its railway or any portion thereof, it shall make an application to the Board for authority therefor, supported by affidavit of its president, secretary, engineer or one of its directors, to the satisfaction of the Board, stating that the railway, or portion thereof, desired to be opened, is in his opinion sufficiently completed for the safe carriage of traffic, and ready for inspection.

Inspection.

(3) Before granting such application, the Board shall direct an inspecting engineer to examine the railway, or portion thereof, proposed to be opened.

When  
opening  
reported  
to be safe.

(4) If the inspecting engineer reports to the Board, after making such examination, that in his opinion the opening of the railway or portion thereof so proposed to be opened for the carriage of traffic, will be reasonably free from danger to the public using the same, the Board may make an order granting such application, in whole or in part, and may name the time therein for the opening of the railway or such portion thereof, and thereupon the railway, or such portion thereof as is authorized by the Board, may be opened for traffic in accordance with such order.

When  
opening  
reported  
dangerous.

(5) If such inspecting engineer, after the inspection of the railway, or any portion thereof, reports to the Board that, in his opinion, the opening of the same would be attended with danger to the public using the same by reason of the incompleteness of the works or permanent way, or the insufficiency of the construction or equipment of such railway, or portion thereof, he shall state in his report the grounds for such opinion, and the company is entitled to notice thereof, and shall be served with a copy of such report and grounds, and the Board may refuse such application in whole or in part, or may direct a further or other inspection and report to be made.

Notice.

Board may  
refuse.

(6) If thereafter, upon such further or other inspection, or upon a new application under this section, the inspecting engineer reports that such railway, or portion thereof, may be opened without danger to the public, the Board may make an order granting such application in whole or in part, and may name the time therein for the opening of the railway, or such portion thereof, and thereupon the railway, or such portion thereof as is authorized by the Board, may be opened for traffic in accordance with such order.

Further inspection.

Order for opening.

(7) The Board, upon being satisfied that public convenience will be served thereby, may, after obtaining a report of an inspecting engineer, allow the company to carry traffic over any portion of the railway not opened for the carriage of traffic in accordance with the provisions of subsections (1) to (6). R.S., c. 170, s. 276.

Leave to carry freight traffic.

*Board May Order Railway to be Opened.*

**280.** The Board, in any case where it deems it right, may, upon the application of any person interested or of its own motion, order the opening of any railway or line or any portion thereof, for traffic, and may require the company to do all things necessary therefor, within such time as the Board fixes. R.S., c. 170, s. 277.

Board may order opening.

SAFETY AND CARE OF ROADWAY.

*Animals not to be at Large Near Highway Crossings.*

**281.** (1) No horses, sheep, swine or other cattle shall be permitted to be at large upon any highway, within half a mile of the intersection of such highway with any railway at rail level, unless they are in charge of some competent person or persons, to prevent their loitering or stopping on such highway at such intersection.

Cattle not allowed at large near railway.

(2) All horses, sheep, swine or other cattle found at large contrary to the provisions of this section may, by any person who finds them at large, be impounded in the pound nearest to the place where they are so found, and the pound-keeper with whom the same are impounded shall detain them in like manner, and subject to like regulations as to the care and disposal thereof, as in the case of cattle impounded for trespass on private property. R.S., c. 170, s. 278.

May be impounded.

*Thistles and Weeds to be Kept Cut.*

**282.** Every company shall cause thistles and all noxious weeds growing on the right of way, and upon land of the

Company to remove weeds, etc.

4663

company

R.S., 1952.



company adjoining the railway, to be cut down or to be rooted out and destroyed each year, before such thistles or weeds have sufficiently matured to seed. R.S., c. 170, s. 279.

*Dry Grass to be Removed.*

Company  
to keep  
right of  
way clear.

**283.** The company shall at all times maintain and keep its right of way free from dead or dry grass, weeds and other unnecessary combustible matter. R.S., c. 170, s. 280.

*Fire Protection.*

Orders and  
regulations.

Fire  
guards, etc.

Fire-rangers.

Patrol.

Return as  
to fire-  
rangers.

Reports of  
fires.

Applicabil-  
ity of  
orders, etc.

Following  
fires.

**284.** (1) The Board may make orders and regulations

(a) respecting the construction, use and maintenance, in connection with the railway, of fire guards or other works which may be deemed by the Board to be necessary and suitable to prevent, as far as possible, fires from being started or occurring, upon, along or near the right of way of the company;

(b) requiring the company to establish and maintain an efficient and competent staff of fire-rangers, equipped with such appliances for fighting fires or preventing them from spreading, as the Board may deem proper, and, to provide such fire-rangers with proper and suitable equipment to enable them to move from place to place along the line of railway with all due speed;

(c) requiring the company to maintain an efficient patrol of the line of railway and of the lands in the vicinity thereof to which fires may spread, and generally defining the duties of the company and of the fire-rangers in respect thereof;

(d) requiring the company to make returns of the names of fire-rangers in its employ in the performance of the above-mentioned duties, and of the places or areas in which they are from time to time engaged; and

(e) requiring the company to make reports and returns of fires occurring upon or near its right of way.

(2) Any such orders or regulations may be made applicable during or after the construction of the railway, or during such time, and in such manner, as the Board deems proper.

(3) For the purpose of fighting and extinguishing fires, the fire-rangers of the company may follow the fires that spread from the railway, to, over and upon the lands to which they may spread.



(4) Subject to the terms and conditions of any order or regulation of the Board, the company may at all times enter into and upon any lands of Her Majesty or of any person lying along the railway, for the purpose of establishing and maintaining thereon the fire guards or other protection directed by the Board, and for the purpose of freeing from dead or dry grass, weeds, and other unnecessary inflammable matter, the land between such fire guards and the line of railway. R.S., c. 170, s. 281.

*Packing.*

**285.** (1) The spaces behind and in front of every railway frog or crossing, and between the fixed rails of every switch, where such spaces are less than four inches in width, shall be filled with packing up to the under side of the head of the rail. Packing in spaces.

(2) The spaces between any wing rail and any railway frog, and between any guard rail and the track rail alongside of it, shall be filled with packing at their splayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than four inches. In splayed ends.

(3) Such packing shall not reach higher than to the under side of the head of the rail. Height of.

(4) Such packing shall consist of wood or metal, or some equally substantial and solid material, of not less than two inches in thickness, and, where by this section any space is required to be filled in on any railway, shall extend to within one and a half inches of the crown of the rails in use, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid; but if there is at any time any method of packing that, in the opinion of the Board, is an improvement over the present requirements, the Board, after hearing on notice, may authorize or direct the use of such improved method. R.S., c. 170, s. 282. Of what to consist.

*Board may Direct Inspection and Order Repairs.*

**286.** (1) Whenever any complaint is made to the Board, or the Board receives information, that any railway, or any portion thereof, is dangerous to the public using the same, from want of renewal or repair, or insufficient or erroneous construction, or from any other cause, or whenever circumstances arise that, in its opinion, render it expedient, the Board may direct an inspecting engineer to examine the railway, or any portion thereof. When railway out of repair.

Board  
may order  
repairs.

(2) The Board may, upon the report of the inspecting engineer, order any repairs, renewal, reconstruction, alteration or new work, materials or equipment to be made, done or furnished by the company upon, in addition to, or substitution for, any portion of the railway, which may, from such report, appear to the Board necessary or proper, and may order that until such repairs, renewals, reconstruction, alteration, and work, materials or equipment are made, done and furnished to its satisfaction, no portion of the railway in respect of which such order is made, shall be used, or used otherwise than subject to such restrictions, conditions and terms as the Board may in such order impose.

May enjoin  
operation  
meantime.

Rolling  
stock may  
be con-  
demned.

(3) The Board may by such order condemn and thereby forbid further use of any rolling stock which, from such report, it may consider unfit to repair or use. R.S., c. 170, s. 283.

*Inspecting Engineer may Forbid Operation.*

Inspecting  
engineer  
may forbid  
operation.

**287.** (1) If in the opinion of any inspecting engineer, it is dangerous for trains to pass over any railway, or any portion thereof, until alterations, substitutions or repairs are made thereon, or that any of the rolling stock should be run or used, the said engineer may, by notice in writing

By notice.

- (a) forthwith forbid the running of any train over such railway or portion of railway; or
- (b) require that the same be run only at such times, under such conditions, and with such precautions, as he by such notice specifies; and
- (c) forbid the running or using of any such rolling stock.

What notice  
shall state.

(2) Such notice shall state the reasons for such opinion of the inspecting engineer, and distinctly point out the defects or the nature of the danger to be apprehended.

Service of  
notice.

(3) The notice may be served upon the company owning, running, or using such railway or rolling stock, or upon any officer having the management or control of the running of trains upon the railway, or the management or control of the rolling stock.

Action of  
Board.

(4) The inspecting engineer shall forthwith report such notice to the Board, which may either confirm, modify or disallow the act or order of such engineer.

Notice  
thereof.

(5) Notice of such confirmation, modification or disallowance, shall be duly given to the company. R.S., c. 170, s. 284.

ACCIDENTS.

*Notice to be Sent to Board.*

**288.** (1) Every company shall, as soon as possible and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company, of any accident attended with personal injury to any person using the railway, or to any employee of the company, or whereby any bridge, culvert, viaduct, or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof, with full particulars, to the Board.

Notice to Board of accidents.

By company.

(2) The conductor or other employee in charge of the train, place or structure in connection with which such accident occurred, shall as soon as possible after such accident notify the Board of the same by telegraph.

By employees.

(3) The Board may by regulation declare the manner and form in which such information and notice shall be given and the class of accidents to which this section shall apply, and may declare any such information so given to be privileged. R.S., c. 170, s. 285.

Board may regulate.

*Board May Direct Inquiry.*

**289.** (1) The Board may appoint such person or persons as it thinks fit to inquire into all matters and things that it deems likely to cause or prevent accidents, and the causes of and the circumstances connected with any accident or casualty to life or property occurring on any railway, and into all particulars relating thereto.

Appointment of officer to inquire into accidents.

(2) The person or persons so appointed shall report fully in writing, to the Board, his or their doings and opinions on the matters respecting that he or they are appointed to inquire, and the Board may act upon such report and may order the company to suspend or dismiss any employee of the company whom it may deem to have been negligent or wilful in respect of any such accident. R.S., c. 170, s. 286.

Officer to report to Board.

Powers of Board.

OPERATION AND EQUIPMENT.

*Orders and Regulations of Board.*

**290.** (1) The Board may make orders and regulations

(a) limiting the rate of speed at which railway trains and locomotives may be run in any city, town or village, or in any class of cities, towns or villages; and the Board may, if it thinks fit, limit certain rates of speed within certain described portions of any city, town or village, and different rates of speed in other portions thereof;

Regulations of Board.

Speed of trains.



- Use of steam whistle.  
Passing from car to car.
- (b) with respect to the use of the steam whistle within any city, town or village, or any portion thereof;
- (c) with respect to the method and means of passing from one car to another, either inside or overhead, and for the safety of railway employees while passing from one car to another;
- Coupling.
- (d) for the coupling of cars;
- Shelter.
- (e) requiring proper shelter to be provided for all railway employees when on duty;
- Prevention of fires.
- (f) with respect to the use on any engine of nettings, screens, grates and other devices, and the use on any engine or car of any appliances and precautions, that may be deemed by the Board necessary and most suitable to prevent, as far as possible, fires from being started or occurring upon, along, or near the right of way of the railway;
- Protection generally.
- (g) with respect to the rolling stock, apparatus, cattle-guards, appliances, signals, methods, devices, structures and works, including light, heat and power lines or wires, to be used upon the railway, so as to provide means for the due protection of property, the employees of the company, and the public and all persons travelling on Her Majesty's service;
- Length of sections, etc.
- (h) with respect to the length of sections required to be kept in repair by employees of the company, and with respect to the number of employees required for each section, so as to ensure safety to the public and to employees;
- Number of men.
- (i) designating the number of men to be employed upon trains, with a view to the safety of the public and of employees;
- Hours of duty.
- (j) limiting or regulating the hours of duty of any employees or class or classes of employees, with a view to the safety of the public and of employees;
- Fuel.
- (k) providing that a specified kind of fuel or a specified kind of power or method or means of propulsion shall be used on any or all locomotives and trains in any district; and
- Motive power.
- (l) generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the employees of the company, in the running and operating of trains and the speed thereof, or the use of engines, by the company on or in connection with the railway.
- Safety, etc.



(2) Any orders or regulations under this section may be made applicable during or after the construction of the railway, or during such time, and in such manner, as the Board deems proper. R.S., c. 170, s. 287. Orders, etc. may be made applicable during construction.

**291.** The Board shall endeavour to provide for uniformity in the construction of rolling stock to be used upon the railway, and for uniformity of rules for the operation and running of trains. R.S., c. 170, s. 288. Uniformity.

**292.** The salary or wages of every person employed in the operation, maintenance or equipment of any railway to which the Parliament of Canada has granted aid by means of subsidy or guarantee shall be paid not less frequently than semi-monthly during the term of employment of such person. R.S., c. 170, s. 289. Payment of salary or wages.

*By-Laws, Rules and Regulations of Company.*

**293.** The company may, subject to the provisions and restrictions in this and in the Special Act contained, and subject to any orders or regulations of the Board made under the authority of this Act, make by-laws, rules or regulations respecting Company may make by-laws, etc.

- (a) the mode by which, and the speed at which any rolling stock used on the railway is to be moved; Speed.
  - (b) the hours of arrival and departure of trains; Time tables.
  - (c) the loading and unloading of cars, and the weights that they are respectively to carry; Loads.
  - (d) the receipt and delivery of traffic; Traffic.
  - (e) the smoking of tobacco, expectorating, and the commission of any nuisance in or upon trains, stations, or other premises occupied by the company; Nuisances.
  - (f) the travelling upon, or the using or working of the railway; Operation.
  - (g) the employment and conduct of the officers and employees of the company; and Officers and employees.
  - (h) the due management of the affairs of the company. Management.
- R.S., c. 170, s. 290.

**294.** The company may, for the better enforcing of the observance of any such by-law, rule or regulation, thereby prescribe a penalty enforceable on summary conviction not exceeding forty dollars for any violation thereof. R.S., c. 170, s. 291. Penalty may be prescribed.

**295.** All by-laws, rules and regulations, whether made by the directors or the company, shall be reduced to writing, be signed by the chairman or person presiding at the meeting To be in writing under common seal.

ing at which they are adopted, have affixed thereto the common seal of the company, and be kept in the office of the company. R.S., c. 170, s. 292.

Must be approved by Governor in Council.

**296.** (1) All such by-laws, rules and regulations, except such as relate to tolls and such as are of a private or domestic nature and do not affect the public generally shall be submitted to the Governor in Council for approval.

Board to report.

(2) The Board shall make a report to the Governor in Council upon such by-laws, rules and regulations, and the Governor in Council may thereupon sanction such by-laws, rules and regulations or any of them, or any part thereof, and may, from time to time, rescind the sanction thereof, or of any part thereof.

No effect without sanction.

(3) No such by-law, rule or regulation has any force or effect without such sanction, or after such sanction has been rescinded. R.S., c. 170, s. 293.

Binding when approved.

**297.** Such by-laws, rules and regulations when so approved are binding upon, and shall be observed by all persons, and are sufficient to justify all persons acting thereunder. R.S., c. 170, s. 294.

Printed copy to be posted up.

**298.** (1) A printed copy of so much of any by-law, rule or regulation, as affects any person, other than the shareholders, or the officers or employees of the company, shall be openly affixed, and kept affixed, to a conspicuous part of every station belonging to the company, so as to give public notice thereof to the persons interested therein or affected thereby.

Publication of by-law for regulation of highway traffic.

(2) Nothing in subsection (1) applies to any by-law for the regulation of highway traffic upon or over a railway bridge, public notice of which by-law is sufficiently given, to persons interested therein or affected thereby, by the publication thereof in one issue of the *Canada Gazette*.

Copy to every officer and employee affected.

(3) A printed copy of so much of any by-law, rule or regulation, as relates to the conduct of or affects the officers or employees of the company, shall be given to every officer and employee of the company thereby affected.

In Quebec both languages.

(4) In the Province of Quebec every such notice, by-law, rule and regulation shall be published both in the English and French languages. R.S., c. 170, s. 295; 1928, c. 43, s. 2.

Company may enforce.

**299.** If the violation or non-observance of any by-law, rule or regulation is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using

4670

reasonable

reasonable force, if necessary, to prevent such violation, or to enforce observance, without prejudice to any penalty incurred in respect thereof. R.S., c. 170, s. 296.

**300.** A copy of any such by-law, rule or regulation of the company, certified as correct by the president, secretary or other executive officer of the company, and bearing the seal of the company, is evidence thereof. R.S., c. 170, s. 297.

*Equipment of Cars and Locomotives.*

**301.** (1) Every railway company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means

(a) to provide immediate communication between the conductor while in any car of any passenger train, and the engine driver;

(b) to check at will the speed of the train, and bring the same safely to a standstill, as expeditiously as possible, and except under circumstances of sudden danger or emergency, without causing undue discomfort to passengers, if any, on the train; and

(c) to securely couple and connect the cars composing the train, and to attach the engine to such train, with couplers that couple automatically by impact and can be uncoupled without the necessity of men going in between the ends of the cars.

(2) Such apparatus, appliances and means for the checking of speed or the stopping of any train shall include a power drive wheel brake and appliances for operating the train brake system upon the locomotive.

(3) There shall also be such a number of cars in every train equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed, or bring the train to a stop in the quickest and best manner possible, without requiring brakemen to use the common hand brake for that purpose.

(4) Upon all trains carrying passengers such system of brakes shall be continuous, instantaneous in action, and capable of being applied at will by the engine driver or any brakeman, and the brakes must be self-applying in the event of any failure in the continuity of their action.

(5) All box freight cars of the company shall, for the security of railway employees, be equipped with

(a) outside ladders, on two of the diagonally opposite ends and sides of each car, projecting below the frame of the car, with one step or rung of each ladder below the frame, the ladders being placed close to the ends and sides to which they are attached, and



Hand grips.

(b) hand grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladders;

but, if there is at any time any other improved side attachment that, in the opinion of the Board, is better calculated to promote the safety of the train hands, the Board may require any of such cars not already fitted with the side attachments by this section required, to be fitted with the said improved attachment.

Height of draw-bars.

(6) Every railway company shall adopt and use upon all its rolling stock such height of draw-bars as the Board determines, in accordance with any standard from time to time adopted by competent railway authorities.

Delay may be allowed for compliance.

(7) The Board may upon good cause shown, by general regulation, or in any particular case, from time to time grant delay for complying with the provisions of this section. R.S., c. 170, s. 298.

Board may determine what equipment sufficient.

**302.** The Board may, by general regulation or upon application in any particular case, after hearing on notice, order that any apparatus or appliances specified in such regulation or order shall or shall not be deemed sufficient compliance with the provisions of section 301, or that any apparatus or appliances specified in such regulation or order shall or shall not, when used upon the train in the manner and under the circumstances in such regulation or order specified, be deemed sufficient compliance with the provisions of the said section. R.S., c. 170, s. 299.

Oiling.

**303.** The oil cups or other appliances used for oiling the valves of every locomotive in use upon any railway shall be such that no employee shall be required to go outside the cab of the locomotive, while the same is in motion, for the purpose of oiling such valves. R.S., c. 170, s. 300.

Bell and whistle.

**304.** Every locomotive engine propelled on the railway by steam shall be equipped and maintained with a bell of at least thirty pounds weight and a whistle; and every locomotive engine, car or other mechanism, propelled on the railway otherwise than by steam, shall be equipped and maintained with such signalling appliance or appliances as may be approved by the Board. 1930, c. 36, s. 3.

### *Running of Trains.*

Regularity in train time.

**305.** (1) All regular trains shall be started and run, as nearly as practicable, at regular hours, fixed by public notice.



(2) Every railway company shall print in both the English and French languages the time-tables that are to be used along its lines within the limits of the Province of Quebec. R.S., c. 170, s. 302.

**306.** (1) Every railway company, upon whose railway there is a telegraph or telephone line in operation shall have a blackboard put upon the outside of the station house, over the platform of the station, in some conspicuous place at each station of such company at which there is a telegraph or telephone office; and when any passenger train is overdue at any such station, according to the time table of such company, the station agent or person in charge at such station, shall write, or cause to be written, with white chalk on such blackboard, a notice stating, to the best of his knowledge and belief, the time when such overdue train may be expected to reach such station.

(2) If there is any further change in the expected time of arrival the station agent or person in charge of the station shall write, or cause to be written on the blackboard in like manner, a fresh notice stating, to the best of his knowledge and belief, the time when such overdue train may then be expected to reach such station.

(3) Such notices shall, in the Province of Quebec, be written in the English and French languages, and, in the other provinces, in English. R.S., c. 170, s. 303.

**307.** No passenger train shall have any freight, merchandise or lumber car in the rear of any passenger car in which any passenger is carried. R.S., c. 170, s. 304.

### *Precautions at Swing Bridges.*

**308.** (1) When any railway passes over any navigable water, or canal, by means of a draw or swing bridge that is subject to be opened for navigation, every train shall, before coming on or crossing over such bridge, be brought to a full stop, and shall not thereafter proceed until a proper signal has been given for that purpose.

(2) Wherever there is adopted or in use on any railway, at any such bridge, an interlocking switch and signal system or other device that, in the opinion of the Board, renders it safe to permit engines and trains to pass over such bridge without being brought to a stop, the Board may, by order, permit engines and trains to pass over such bridge without stopping, under such regulations as to speed and other matters, as the Board deems proper. R.S., c. 170, s. 305.

*Precautions at Railway Crossings.*

Signal at  
rail level  
crossings.

**309.** (1) No train or engine or electric car shall pass over any crossing where two main lines of railway, or the main tracks of any branch lines, cross each other at rail level, whether they are owned by different companies or the same company, until a proper signal has been received by the conductor or engineer in charge of such train or engine from a competent person or watchman in charge of such crossing that the way is clear.

Electric  
railway  
crossings.

(2) In the case of an electric car crossing any railway track at rail level, if there is no competent person or watchman in charge of the crossing, it is the duty of the conductor, before crossing and before giving the signal to the motorman that the way is clear and to proceed, to go forward and see that the track to be crossed is clear. R.S., c. 170, s. 306.

Stoppage of  
trains at  
rail level  
crossings.

**310.** Every engine, train or electric car shall, before it passes over any crossing as mentioned in section 309, be brought to a full stop, except that whenever there is in use, at any such crossing, an interlocking switch and signal system, or other device that, in the opinion of the Board, renders it safe to permit engines and trains or electric cars to pass over such crossing without being brought to a stop, the Board may, by order, permit such engines and trains and cars to pass over such crossing without stopping, under such regulations as to speed and other matters as the Board deems proper. R.S., c. 170, s. 307.

Where  
safety de-  
vices are  
installed,  
Board may  
otherwise  
order.

*Precautions at Highway Crossings and in Thickly Peopled Places.*

Use of  
bell and  
whistle.

**311.** (1) When any train is approaching a highway crossing at rail level the engine whistle shall be sounded at least eighty rods before reaching such crossing, and the bell shall be rung continuously from the time of the sounding of the whistle until the engine has crossed such highway.

Relief from  
require-  
ments.

(2) Where a by-law of an urban municipality prohibits such sounding of the whistle or ringing of the bell in respect of any such crossing or crossings within the limits of the municipality, the by-law shall, if approved by an order of the Board, to the extent of the prohibition relieve the company and its employees from the duty imposed by this section.

"Urban  
municipal-  
ity" defined.

(3) In subsection (2) the expression "urban municipality" means

(a) a city;

4674

(b)

(b) a town; or

(b) any other municipality which contains a thickly peopled portion and which the Board, on the application of such municipality, declares to be an urban municipality within the meaning of the said subsection. R.S., c. 170, s. 308; 1947, c. 70, s. 5.

**312.** (1) No train shall pass at a speed greater than ten miles an hour Speed of trains.

(a) in or through any thickly peopled portion of any city, town or village, unless the track is fenced or properly protected in the manner prescribed by this Act, or unless permission is given by some regulation or order of the Board; In unfenced portions of thickly peopled places.

(b) over any highway crossing at rail level in any thickly peopled portion of any city, town or village, unless such crossing is constructed and thereafter maintained and protected in accordance with the orders, regulations and directions specially issued by the Railway Committee of the Privy Council or of the Board, in force with respect to such crossing, or unless permission is given by some regulation or order of the Board; or Over unprotected highway crossings in thickly peopled places.

(c) over any highway crossing at rail level in respect of which crossing an order of the Board has been made to provide protection for the safety and convenience of the public and which order has not been complied with. Over crossings not protected as ordered.

(2) No train shall pass at a speed greater than twenty-five miles an hour over any highway crossing at rail level if at such crossing subsequent to the 1st day of January, 1905, a person or vehicle using the crossing, or an animal being ridden or driven over the same, has been struck by a moving train, and bodily injury or death thereby caused to such person, or to any other person using the crossing, unless the Board directs that the speed limitation of twenty-five miles an hour shall not be in effect at the crossing or unless the crossing is protected to the satisfaction of the Board. R.S., c. 170, s. 309; 1947, c. 70, s. 6. Speed of trains over crossings where accidents happened.

**313.** (1) Whenever in any city, town or village, any train, not headed by an engine or its tender, is passing over or along a highway at rail level that is not adequately protected by gates or otherwise, the company shall station on that part of the train, which is then foremost, a person who shall warn persons standing on, or crossing, or about to cross the track of such railway. Trains moving in reverse.



Board may  
exempt.

(2) The Board, upon the application of any railway company or person, has power to order that this section shall not apply to any particular trains or classes of trains, or to trains running on any specified portions of the railway of the company, but no such order shall be made with respect to trains engaged in shunting or switching, or in yard or terminal movements. R.S., c. 170, s. 310; 1946, c. 30, s. 1.

*Respecting the Obstruction of Highway Traffic.*

Train must  
not ob-  
struct  
highway  
more than  
five  
minutes.

**314.** Whenever any railway crosses any highway at rail level, the company shall not, nor shall its officers, agents or employees, wilfully permit any engine, tender or car, or any portion thereof, to stand on any part of such highway, for a longer period than five minutes at one time, or in shunting, to obstruct public traffic for a longer period than five minutes at one time, or in the opinion of the Board, unnecessarily interfere therewith. R.S., c. 170, s. 311.

TRAFFIC, TOLLS AND TARIFFS.

*Accommodation for Traffic.*

Accommoda-  
tion.  
At all  
stations.

**315.** (1) The company shall, according to its powers,  
(a) furnish, at the place of starting, and at the junction of the railway with other railways, and at all stopping places established for such purpose, adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage upon the railway;

Carriage  
and  
delivery.  
No delay.

(b) furnish adequate and suitable accommodation for the carrying, unloading and delivering of all such traffic;  
(c) without delay, and with due care and diligence, receive, carry and deliver all such traffic;

Appliances.

(d) furnish and use all proper appliances, accommodation and means necessary for receiving, loading, carrying, unloading and delivering such traffic; and

Other  
service.

(e) furnish such other service incidental to transportation as is customary or usual in connection with the business of a railway company, as may be ordered by the Board.

What ade-  
quate and  
suitable ac-  
commoda-  
tion shall  
include.

(2) Such adequate and suitable accommodation shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by the company, and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways, together with the placing of cars and moving them upon and from such private sidings and private branch railways.



(3) If in any case such accommodation is not, in the opinion of the Board, furnished by the company, the Board may order the company to furnish the same within such time or during such period as the Board deems expedient, having regard to all proper interests; or may prohibit or limit the use, either generally or upon any specified railway or part thereof, of any engines, locomotives, cars, rolling stock, apparatus, machinery, or devices, or any class or kind thereof, not equipped as required by this Act, or by any orders or regulations of the Board made within its jurisdiction under the provisions of this Act.

May be ordered by Board.

(4) Such traffic shall be taken, carried to and from, and delivered at the places aforesaid on the due payment of the toll lawfully payable therefor.

Payment of tolls.

(5) Where a company's railway crosses or joins or approaches, in the opinion of the Board, sufficiently near to any other railway, upon which passengers or mails are transported, whether the last mentioned railway is within the legislative authority of the Parliament of Canada or not, the Board may order the company so to regulate the running of its trains carrying passengers or mails, and the places and times of stopping them, as to afford reasonable opportunity for the transfer of passengers and mails between its railway and such other railway, and may order the company to furnish reasonable facilities and accommodation for such purpose.

Board may regulate time so as to allow connections to be made between railways for passengers and mails.

(6) For the purposes of this section the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company or companies, or by railway companies generally.

Board may order specific works, tolls, etc.

(7) Every person aggrieved by any neglect or refusal of the company to comply with the requirements of this section has, subject to this Act, an action therefor against the company, from which action the company is not relieved by any notice, condition or declaration, if the damage arises from any negligence or omission of the company or of its servant.

Right of action on default.

Condition against negligence invalid.

(8) The Board may make regulations, applying generally or to any particular railway or any portion thereof, or may make an order in any case where it sees fit, imposing charges for default or delay by any company in furnishing accommodation, appliances, or means as aforesaid, or in receiving,

Demurrage.

loading, carrying, unloading or delivering traffic, and may enforce payment of such charges by companies to any person injuriously affected by such default or delay; and any amount so received by any person shall be deducted from the damages recoverable or recovered by such person for such default or delay; and the Board may, by order or regulation, determine what circumstances shall exempt any company from payment of any such charges. R.S., c. 170, s. 312.

Interchange  
of traffic  
between  
connecting  
lines.

Inter-  
switching.

Reciprocal  
duties of  
companies.

Charge  
regulated  
by Board.

Application  
of section.

**316.** (1) Where a branch line of one railway joins or connects the line or lines of such railway with another, the Board may, upon application of one of the companies, or of a municipal corporation or other public body, order that the railway company that constructed such branch line shall afford all reasonable and proper facilities for the interchange, by means of such branch, of freight and live stock traffic, and the empty cars incidental thereto, between the lines of the said railway and those of the railway with which the said branch is so joined or connected, in both directions, and also between the lines of the said first mentioned railway and those of other railways connecting with the lines of the first mentioned railway and all tracks and sidings used by such first mentioned railway for the purpose of loading and unloading cars, and owned or controlled by, or connecting with the lines of, the company owning or controlling the first mentioned railway, and such other tracks and sidings as the Board from time to time directs; and the company owning or controlling the secondly mentioned railway shall furnish similar reasonable and proper facilities to the first mentioned railway, and to other lines connecting with its own railway, and shall in all respects be under duties corresponding to those of the company owning or controlling the first mentioned railway, and shall be subject in like manner to the directions of the Board.

(2) The Board may, in and by such order, or by other orders, from time to time determine as questions of fact and direct the price per car that shall be charged by and paid for such traffic.

(3) This section applies whether or not the point of connection is within the same city, town or village as the point of shipment or delivery, or so near thereto that the tolls to and from such points are the same. R.S., c. 170, s. 313.

*Equality as to Tolls and Facilities.*

**317.** (1) All tolls shall always under substantially similar circumstances and conditions, in respect of all traffic of the same description, and carried in or upon the like kind of cars or conveyances, passing over the same line or route, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise. Equal tolls to be charged.

(2) No reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular person or company travelling upon or using the railway. No discrimination.

(3) The tolls for carload quantities or longer distances, may be proportionately less than the tolls for less than carload quantities, or shorter distances, if such tolls are, under substantially similar circumstances, charged equally to all persons. Carload quantities.

(4) No toll shall be charged that unjustly discriminates between different localities. Localities.

(5) The Board shall not approve or allow any toll, that for the like description of goods, or for passengers carried under substantially similar circumstances and conditions in the same direction over the same line or route is greater for a shorter than for a longer distance, within which such shorter distance is included, unless the Board is satisfied that, owing to competition, it is expedient to allow such toll. Duty of Board.

(6) The Board may declare that any places are competitive points within the meaning of this Act. R.S., c. 170, s. 314. Competitive points.

**318.** No company shall, without leave therefor having been obtained from the Board, except in accordance with the provisions of this Act, directly or indirectly, pool its freights or tolls with the freights or tolls of any other railway company or common carrier, or divide its earnings or any portion thereof with any other railway company or common carrier, or enter into any contract, arrangement, agreement, or combination to effect, or which may effect, any such result. R.S., c. 170, s. 315. Pooling prohibited.

**319.** (1) All railway companies shall, according to their respective powers, afford to all persons and companies all reasonable and proper facilities for the receiving, forwarding and delivering of traffic upon and from their several railways, for the interchange of traffic between their respective railways, and for the return of rolling stock. Facilities for traffic.



Through  
traffic.

(2) Such facilities so to be afforded shall include the due and reasonable receiving, forwarding and delivering by the company, at the request of any other company, of through traffic, and in the case of goods shipped by carload, of the car with the goods shipped therein, to and from the railway of such other company, at a through rate; and also the due and reasonable receiving, forwarding and delivering by the company, at the request of any person interested in through traffic, of such traffic at through rates.

(3) No company shall

No undue  
preference.

(a) make or give any undue or unreasonable preference or advantage to, or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever;

Or discrimi-  
nation.

(b) by any unreasonable delay or otherwise howsoever, make any difference in treatment in the receiving, loading, forwarding, unloading, or delivery of the goods of a similar character in favour of or against any particular person or company;

Or  
prejudice.

(c) subject any particular person, or company, or any particular description of traffic, to any undue, or unreasonable prejudice or disadvantage, in any respect whatsoever; or

Allotment  
of freight  
cars.

(d) so distribute or allot its freight cars as to discriminate unjustly against any locality or industry, or against any traffic that may originate on its railway destined to a point on another railway in Canada with which it connects.

Connecting  
railway to  
afford  
reasonable  
facilities.

(4) Every railway company that has or works a railway forming part of a continuous line of railway with or which intersects any other railway, or that has any terminus, station or wharf near to any terminus, station or wharf of any other railway, shall afford all due and reasonable facilities for delivering to such other railway, or for receiving from and forwarding by its railway, all the traffic arriving by such other railway without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage as aforesaid, and so that no obstruction is offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation, by means of the railways of the several companies, is, at all times, afforded to the public in that behalf.



(5) The reasonable facilities that every railway company is required to afford under this section, shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by any such company, and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways.

Facilities for junction of private sidings, branches, etc.

(6) Every railway company that grants any facilities for the carriage of goods by express to any incorporated express company or person, shall grant equal facilities, on equal terms and conditions, to any other incorporated express company which demands the same.

Equal facilities to be granted to express companies.

(7) Any agreement made between any two or more companies contrary to this section is unlawful and null and void. R.S., c. 170, s. 316.

Agreements to the contrary void.

**320.** (1) The Board may determine, as questions of fact, whether or not traffic is or has been carried under substantially similar circumstances and conditions, and whether there has, in any case, been unjust discrimination, or undue or unreasonable preference or advantage, or prejudice or disadvantage, within the meaning of this Act, or whether in any case the company has, or has not, complied with the provisions of sections 317, 318 and 319.

Board may determine.

(2) The Board may by regulation declare what shall constitute substantially similar circumstances and conditions, or unjust or unreasonable preferences, advantages, prejudices, or disadvantages within the meaning of this Act, or what shall constitute compliance or non-compliance with the provisions of sections 317, 318 and 319.

May make declaratory regulation.

(3) For the purposes of section 319, the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company or companies, or by railway companies generally. R.S., c. 170, s. 317.

Board may order specific works, tolls, etc.

**321.** If the company is unable or fails to provide sufficient facilities for the movement of grain from the western provinces to the elevators at the head of Lake Superior, or to destinations east thereof, after the close of navigation on the Great Lakes and before the next harvest, and grain in certain sections or districts cannot by reason thereof be marketed, the Board may require the said company to furnish all facilities within its powers for the carriage of such grain in

Facilities to be afforded for movement of grain from the Western Provinces.

4681

such

R.S., 1952.

such sections or districts to any intermediate point or points of interchange with another company or any terminal elevator, and there to make delivery thereof to such other company or companies or to such elevator for carriage by such other company or companies as the Board may direct; and the Board may require such other company or companies to transport such grain and supply the necessary cars and engines therefor, and the rates lawfully published and filed by the company in default and obtaining on its route apply over the joint route or routes so directed and shall be apportioned between the companies as the Board may direct. R.S., c. 170, s. 318.

Discrimination.

**322.** Whenever it is shown that any railway company charges one person, company, or class of persons, or the persons in any district, lower tolls for the same or similar goods, or lower tolls for the same or similar services, than it charges to other persons, companies, or classes of persons, or to the persons in another district, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll or difference in treatment does not amount to an undue preference or an unjust discrimination, lies on the company. R.S., c. 170, s. 319.

Burden of proof.

What Board may consider in deciding undue preference.

**323.** In deciding whether a lower toll, or difference in treatment, does or does not amount to an undue preference or an unjust discrimination, the Board may consider whether such lower toll, or difference in treatment, is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher tolls. R.S., c. 170, s. 320.

Apportionment of toll for carriage by land and water.

**324.** In any case in which the toll charged by the company for carriage, partly by rail and partly by water, is expressed in a single sum, the Board, for the purpose of determining whether a toll charged is discriminatory or contrary in any way to the provisions of this Act, may require the company to declare forthwith to the Board, or may determine, what portion of such single sum is charged in respect of the carriage by rail. R.S., c. 170, s. 321.

#### *Freight Classification.*

Tariff of tolls subject to classification by Board.

**325.** (1) The tariffs of tolls for freight traffic shall be subject to and governed by that classification which the Board may prescribe or authorize, and the Board shall endeavour to have such classification uniform throughout Canada, as far as may be, having due regard to all proper interests.

(2) The Board may make any special regulations, terms and conditions or order or direction in connection with such classification, and as to the carriage of any particular commodity or commodities mentioned therein, as to it may seem expedient. Special terms and conditions.

(3) The company may, from time to time, with the approval of the Board, and shall, when so directed by the Board, place any goods specified by the Board in any stated class, or remove them from any one class to any other, higher or lower, class; but no goods shall be removed from a lower to a higher class until such notice as the Board determines has been given in the *Canada Gazette*. Changes of class.

(4) Any freight classification and exception thereto in use in the United States may, subject to any regulation, order or direction of the Board, be used by the company with respect to traffic to and from the United States. R.S., c. 170, s. 322. United States classification.

### *Tariffs—General Provisions.*

**326.** (1) The company or the directors of the company, by by-law, or any officer of the company who is thereunto authorized by a by-law of the company or directors may from time to time prepare and issue tariffs of the tolls to be charged in respect of the railway owned or operated by the company, and may specify the persons to whom, the place where, and the manner in which, such tolls shall be paid. Tariffs of tolls.  
Preparation and issue.

(2) The tolls may be either for the whole or for any particular portion of the railway. Local or general.

(3) All such by-laws shall be submitted to and approved by the Board. Approval by Board.

(4) The Board may approve such by-laws in whole or in part, or change, alter or vary any of the provisions therein. Nature of approval.

(5) No tolls shall be charged by the company or by any person in respect of a railway or any traffic thereon until a by-law authorizing the preparation and issue of tariffs of such tolls has been approved by the Board, nor, unless otherwise authorized by this Act, until a tariff of such tolls has been filed with, and, where such approval is required under this Act, approved by, the Board, nor until any other requirements necessary under this Act to bring such tariff into effect have been complied with; nor shall any tolls be charged under any tariff or portion thereof disallowed by the Board, or not in effect in accordance with the provisions of this Act; nor shall the company charge, levy or collect any toll or money for any service as a common carrier except under and in accordance with the provisions of this Act. No tolls unless authorized.



Regulations as to publication.

(6) The Board may, with respect to any tariff of tolls, make regulations fixing and determining the time when, the place where, and the manner in which, such tariffs shall be filed, published and kept open for public inspection. R.S., c. 170, s. 323; 1951 (2nd Sess.), c. 22, s. 5.

Form and particulars.

**327.** All tariff by-laws and tariffs of tolls shall be in such form, size and style, and give such information, particulars and details, as the Board may, by regulation, or in any case, prescribe. R.S., c. 170, s. 324.

Disallowance.

**328.** (1) The Board may disallow any tariff or any portion thereof that it considers to be unjust or unreasonable, or contrary to any of the provisions of this Act, and may require the company, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed.

Substitution.

Effective date.

(2) The Board may designate the date at which any tariff shall come into force, and either on application or of its own motion may, pending investigation or for any reason, postpone the effective date of, or either before or after it comes into effect, suspend any tariff or any portion thereof.

Amendment.

(3) Except as otherwise provided, any tariff in force may, subject to disallowance or change by the Board, be amended or supplemented by the company by new tariffs, in accordance with the provisions of this Act.

Consolidation.

(4) When any tariff has been amended or supplemented, or is proposed to be amended or supplemented, the Board may order that a consolidation and reissue of such tariff be made by the company.

Power to fix rates and to enforce fair and reasonable rate structure.

(5) Notwithstanding the provisions of section 3 the powers given to the Board under this Act to fix, determine and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost of transportation may from time to time require, are not limited or in any manner affected by the provisions of any Act of the Parliament of Canada, or by any agreement made or entered into pursuant thereto, whether general in application or special and relating only to any specific railway or railways, and the Board shall not excuse any charge of unjust discrimination, whether practised against shippers, consignees, or localities, or of undue or unreasonable preference, on the ground that such discrimination or preference is justified or required by any agreement made or entered into by the company.



(6) Notwithstanding anything in subsection (5), rates on grain and flour shall, on and from the 27th day of June, 1925, be governed by the provisions of the agreement made pursuant to chapter 5 of the statutes of Canada 1897, but such rates shall apply to all such traffic moving from all points on all lines of railway west of Fort William to Fort William or Port Arthur over all lines now or hereafter constructed by any company subject to the jurisdiction of Parliament.

Rates on grain and flour.

(7) The Board shall not excuse any charge of unjust discrimination, whether practised against shippers, consignees, or localities or of undue or unreasonable preference, respecting rates on grain and flour, governed by the provisions of chapter 5 of the statutes of Canada, 1897, and by the agreement made or entered into pursuant thereto within the territory referred to in subsection (6), on the ground that such discrimination or preference is justified or required by the said Act or by the agreement made or entered into pursuant thereto. R.S., c. 170, s. 325; 1951 (2nd Sess.). c. 22, s. 6.

Unjust discrimination or undue or unreasonable preference in rates on grain and flour.

**329.** (1) Every tariff superseding or intended to supersede any other tariff or tariffs, or any portion or portions thereof, shall specify the tariff or tariffs, or portion or portions thereof, that it supersedes or is intended to supersede, by giving the reference number or referring to the page and section or item in such a way as to facilitate an accurate and ready reference to what is superseded or intended to be superseded.

References in superseding tariffs.

(2) When any tariff is cancelled without being superseded by a tariff of like issue, a supplement shall be issued to such cancelled tariff and such supplement shall specify the tariff wherein the tolls may thereafter be found. R.S., c. 170, s. 326.

Supplements to cancelled tariffs.

**330.** (1) In all cases a fraction of a mile in the distance over which traffic is carried on the railway shall be considered as a whole mile.

Fraction of a mile.

(2) In estimating the weight of any goods in any one single shipment on which the toll amounts to more than the minimum, or "smalls" toll, any fraction of five pounds shall be waived by the company, and five or any fraction above five and up to ten pounds shall be deemed ten pounds by the company.

Fraction of five pounds in weight.

(3) In estimating the tolls to be charged in passenger tariffs hereafter issued, any amount not exceeding two and a half cents shall be waived by the company, and above two and a half cents and up to five cents shall be considered as five cents by the company. R.S., c. 170, s. 327.

Fraction of five cents.

*Freight Tariffs.*

Division  
of freight  
tariffs.

**331.** (1) The tariffs of tolls that the company is authorized to issue under this Act for the carriage of goods between points on the railway are

- (a) class rate tariffs;
- (b) commodity rate tariffs;
- (c) competitive rate tariffs; and
- (d) special arrangements tariffs.

Class rate.

(2) A class rate is a rate applicable to a class rating to which articles are assigned in the freight classification.

Commodity  
rate.

(3) A commodity rate is a rate applicable to an article described or named in the tariff containing the rate.

Competitive  
rate.

(4) A competitive rate is a class or commodity rate that is issued to meet competition.

Special  
arrange-  
ment.

(5) Special arrangements are charges, allowances, absorptions, rules and regulations respecting demurrage, protection, storage, switching, elevation, cartage, loading, unloading, weighing, diversion and all other accessorial or special arrangements that in any way increase or decrease the charges to be paid on any shipment or that increase or decrease the value of the service provided by the company. 1951 (2nd Sess.), c. 22, s. 7.

What class  
rate tariff  
to specify.

**332.** Class rate tariffs

- (a) shall specify class rates on a mileage basis for all distances covered by the company's railway, and such distances shall be expressed in blocks or groups and the blocks or groups shall include relatively greater distances for the longer than for the shorter hauls, and
- (b) may, in addition, specify class rates between specified points on the railway and when rates are established in groups the rates to or from individual points in the groups may be higher or lower than the rates specified under paragraph (a). 1951 (2nd Sess.), c. 22, s. 7.

Tariffs to  
be filed and  
published.

**333.** (1) Every freight tariff and every amendment of a freight tariff shall be filed and published, and notice of the issue thereof and of cancellation of any such tariff or any portion thereof shall be given in accordance with regulations, orders or directions made by the Board.

(2) Unless otherwise ordered by the Board, when any freight tariff other than a competitive tariff reduces any toll previously authorized to be charged under this Act, the company shall file such tariff with the Board at least three days before its effective date.

(3) Unless otherwise ordered by the Board, when any freight tariff other than a competitive tariff advances any toll previously authorized to be charged under this Act, the company shall in like manner file and publish such tariff at least thirty days before its effective date.

(4) Competitive rate tariffs shall be filed by the company with the Board and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

(5) Where a freight tariff is filed and notice of issue is given in accordance with this Act and regulations, orders and directions of the Board, the tolls therein shall, unless and until they are disallowed, suspended, or postponed by the Board, be conclusively deemed to be the lawful tolls and shall take effect on the date stated in the tariff on which it is intended to take effect, and it shall supersede any preceding tariff, or any portion thereof, in so far as it reduces or advances the tolls therein, and the company shall thereafter, until such tariff expires or is disallowed or suspended by the Board or is superseded by a new tariff, charge the tolls as specified therein. 1951 (2nd Sess.), c. 22, s. 7.

Effective  
dates of  
tariffs.

**334.** (1) The Board may provide that any competitive rate may be acted upon and put into operation immediately upon the issue thereof before it is filed with the Board, or allow any such rate to go into effect as the Board shall appoint.

Filing of  
competitive  
tariffs.

(2) The Board may require a company issuing a competitive rate tariff to furnish at the time of filing the tariff, or at any time, any information required by the Board to establish that

- (a) the competition exists;
- (b) the rates are compensatory; and
- (c) the rates are not lower than necessary to meet the competition;

and such information, if the Board in any case deems it practicable and desirable, shall include all or any of the following:

- (i) the name of the competing carrier or carriers,
- (ii) the route over which competing carriers operate,
- (iii) the rates charged by the competing carriers, with proof of such rates as far as ascertainable,
- (iv) the tonnage normally carried by the railway between the points of origin and destination,
- (v) the estimated amount of tonnage that is diverted from the railway or that will be diverted if the rate is not made effective,



- (vi) the extent to which the net revenue of the company will be improved by the proposed changes,
- (vii) the revenue per ton-mile and per car-mile at the proposed rate and the corresponding averages of the company's system or region in which the traffic is to move, and
- (viii) any other information required by the Board regarding the proposed movement.

1951 (2nd Sess.), c. 22, s. 7.

Burden of proof.

**335.** Where an objection is filed with the Board to any freight tariff that advances a rate previously authorized to be charged under this Act, other than a competitive rate, the burden of proof justifying the proposed advance shall be upon the company filing the tariff. 1951 (2nd Sess.), c. 22, s. 7.

National freight rates policy.

**336.** (1) It is hereby declared to be the national freight rates policy that, subject to the exceptions specified in subsection (4), every railway company shall, so far as is reasonably possible, in respect of all freight traffic of the same description, and carried on or upon the like kind of cars or conveyances, passing over all lines or routes of the company in Canada, charge tolls to all persons at the same rate, whether by weight, mileage or otherwise.

Revision of tariffs.

(2) The Board may, with a view to implementing the national freight rates policy, require any railway company

(a) to establish a uniform scale of mileage class rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls;

(b) to establish for each article or group of articles for which mileage commodity rates are specified, a uniform scale of mileage commodity rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls; and

(c) to revise any other rates charged by the company.

Disallowance and substitution.

(3) The Board may disallow any tariff or any portion thereof that it considers to be contrary to the national freight rates policy, and may require the company, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed.

Exceptions.

(4) Subsections (1), (2) and (3) are subject to subsection (6) of section 328 of this Act and to the *Maritime Freight Rates Act*, and do not apply in respect of



- (a) joint international rates between points in Canada and points in the United States of America;
- (b) rates on export and import traffic through Canadian ports, where in practice such rates bear a fixed and long-standing relationship with rates on similar traffic through ports in the United States of America;
- (c) competitive rates;
- (d) agreed charges authorized by the Board under Part IV of the *Transport Act*;
- (e) rates over the White Pass and Yukon route;
- (f) rates applicable to movements of freight traffic upon or over all or any of the lines of railway collectively designated as the "Eastern lines" in the *Maritime Freight Rates Act* as amended by *The Statute Law Amendment (Newfoundland) Act*, chapter 6 of the statutes of Canada, 1949; or
- (g) where the Board considers that an exception should be made from the operation of this section. 1951 (2nd Sess.), c. 22, s. 7.

**337.** (1) In this section

Definitions.

- (a) "eastern territory" means any point on a line of railway east of Port Arthur, Ontario, or Armstrong, Ontario; "Eastern territory."
- (b) "western territory" means any point on a line of railway in British Columbia to which competitive transcontinental tolls apply; "Western territory."
- (c) "intermediate territory" means any point between eastern territory and western territory on any line of railway; and "Intermediate territory."
- (d) "transcontinental freight traffic" means freight traffic
  - (i) having its origin in eastern territory and its destination in western territory, or
  - (ii) having its origin in western territory and its destination in eastern territory.
 "Trans-continental freight traffic."

(2) Tariffs naming a competitive toll for any transcontinental freight traffic shall provide that

Maximum tolls to intermediate territory.

- (a) the toll for freight traffic having its destination at a point in intermediate territory, and
  - (i) having its origin at the same point in eastern or western territory,
  - (ii) being of the same description, and
  - (iii) carried in the same direction and under the same conditions and arrangements as to weight and otherwise,

as the transcontinental freight traffic for which the competitive toll is named, shall not exceed by more than one-third the competitive toll so named to the point of

Maximum  
tolls from  
inter-  
mediate  
territory.

destination in eastern or western territory, as the case may be, nearest to the point of destination in intermediate territory; and

(b) the toll for freight traffic having its origin at a point in intermediate territory, and

(i) having its destination at the same point in eastern or western territory,

(ii) being of the same description, and

(iii) carried in the same direction and under the same conditions and arrangements as to weight and otherwise,

as the transcontinental freight traffic for which the competitive toll is named, shall not exceed by more than one-third the competitive toll so named between such point of destination and the point of origin in eastern or western territory, as the case may be, nearest to the point of origin in intermediate territory. 1951 (2nd Sess.), c. 22, s. 7.

### *Passenger Tariffs.*

Division of  
passenger  
tariffs.

**338.** (1) The tariffs of tolls that the company shall be authorized to issue under this Act for the carriage of passengers between points on the railway shall be divided into two classes,

Standard.  
Special.

(a) the standard passenger tariff; and

(b) special passenger tariffs.

What  
standard  
passenger  
tariffs shall  
specify.

(2) The standard passenger tariff or tariffs, where the company is allowed by the Board more than one standard passenger tariff, shall specify the maximum mileage toll or tolls to be charged for passengers for all distances covered by the company's railway; and such distances may be expressed in like manner as provided in paragraph (a) of section 332 for class rate freight tariffs.

What  
special  
passenger  
tariffs shall  
specify.

(3) Special passenger tariffs shall specify the toll or tolls to be charged by the company for passengers, in every case where such tolls are lower than the tolls specified in the company's standard passenger tariff. R.S., c. 170, s. 333; 1951 (2nd Sess.), c. 22, s. 8.

Standard  
passenger  
tariff.

**339.** (1) A standard passenger tariff shall be filed, approved and published, and amended or supplemented, in accordance with regulations, orders or directions made by the Board.

Approved  
and  
published.

(2) Until the company files its standard passenger tariff and such tariff is so approved and published in the *Canada Gazette*, no tolls shall be charged by the company.

(3) When the provisions of this section have been complied with, the tolls in the standard passenger tariff shall, except in the case of special passenger tariffs, be the only tolls that the company is authorized to charge for the carriage of passengers. R.S., c. 170, s. 334; 1951 (2nd Sess.), c. 22, s. 9. Tolls authorized.

**340.** (1) The company shall file all special passenger tariffs with the Board at least three days before the effective date and shall, for three days previous to the date on which any such tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of each such tariff, at every station or office of the company where passengers are received for carriage thereunder, and also post up in a prominent place at each such office or station a notice in large type directing public attention to the place in such office or station where such tariff is so kept on file; but the Board may, owing to the exigencies of competition or otherwise, notwithstanding anything in this section, determine the time or manner within and according to which publication of any such tariff is to be made. Special passenger tariffs.  
Notice.

(2) The date of the issue and the date on which, and the period, if any, during which, any such tariff is intended to take effect, shall be specified therein. Date and period.

(3) When the foregoing provisions have been complied with, any such tariff, unless suspended or postponed by the Board, shall take effect on the date stated therein as the date on which it is intended to take effect, and the company shall thereafter, until such tariff is disallowed or suspended by the Board or expires or is superseded by a new tariff, charge the toll or tolls as specified therein, and such tariff shall supersede any preceding tariff or tariffs or any portion or portions thereof, in so far as it reduces or advances the tolls therein. When effective.

(4) Until such tariff comes into effect no such toll or tolls shall be charged by the company. R.S., c. 170, s. 335. No toll before tariff.

### *Joint Tariffs.*

**341.** (1) Where traffic is to pass over any continuous route in Canada operated by two or more companies, the several companies shall agree upon a joint tariff for such continuous route and the initial company or an agent duly authorized by power of attorney of such company, shall file such tariff with the Board and the other company or companies shall promptly notify the Board of its or their concurrence in such joint tariff. Continuous route in Canada.  
Joint tariffs shall be agreed upon.



Names of  
companies.

(2) The names of the companies whose lines compose such continuous route shall be shown by such tariffs.

Continuous  
route in the  
case of  
carriage by  
water.

(3) If the company owns, charters, uses, maintains or works, or is a party to any arrangement for using, maintaining or working vessels for carrying traffic, by sea or inland water, between any places or ports in Canada, and if any such vessel carries traffic between a port in Canada reached by such company and a port in Canada reached by the railway of another company, the vessel and the railway of either company shall be deemed to constitute a continuous route in Canada within the meaning of this section.

Burden of  
proof of  
greater  
costs.

(4) Where it is shown that the rates in the joint tariff exceed the rates in a single-line tariff for the same or similar distances in the same locality, the burden of proof lies upon the companies to show to the satisfaction of the Board that there are greater costs involved in the joint movement, and only in such case shall the rates in the joint tariff exceed the rates in the single-line tariff. R.S., c. 170, s. 336; 1929, c. 54, s. 3; 1951 (2nd Sess.), c. 22, s. 10.

Where  
failure to  
agree  
Board may  
decide.

**342.** (1) In the event of failure by such companies to agree upon any such joint tariff as provided in section 341, the Board on the application of any company or person desiring to forward traffic over any such continuous route, which the Board considers a reasonable and practicable route, or any portion thereof, may require such companies, within a prescribed time, to agree upon and file in like manner a joint tariff for such continuous route, satisfactory to the Board, or may, by order, determine the route, fix the toll or tolls and apportion the same among the companies interested, and may determine the date when the toll or tolls so fixed shall come into effect.

Companies  
to comply.

(2) Upon any such order being made the companies shall as soon as possible, or within such time as the Board may require, file and publish a joint tariff in accordance with this Act, and in accordance with such order.

Apportion-  
ment of  
through  
rate.

(3) In any case when there is a dispute between companies interested as to the apportionment of a through rate in any joint tariff, the Board may apportion such rate between such companies.

Power of  
Board.

(4) The Board may decide that any proposed through rate is just and reasonable, notwithstanding that a less amount may be allotted to any company out of such through rate than the toll such company would otherwise be entitled to charge. R.S., c. 170, s. 337.



**343.** When traffic is to pass over any continuous route from a point in Canada through a foreign country into Canada, or from any point in Canada to a foreign country, and such route is operated by two or more companies, whether Canadian or foreign, the several companies shall file with the Board a joint tariff for such continuous route. R.S., c. 170, s. 338.

From Canada to foreign country.

**344.** As respects all traffic that is carried from any point in a foreign country into Canada, or from a foreign country through Canada into a foreign country by any continuous route owned or operated by any two or more companies, whether Canadian or foreign, a joint tariff for such continuous route shall be duly filed with the Board. R.S., c. 170, s. 339.

From foreign country to or through Canada.

**345.** (1) No company shall, by any combination, contract or agreement, express or implied, or by other means or device, prevent the carriage of goods from being continuous from the place of shipment to the place of destination.

Continuous carriage not to be prevented.

(2) No break in bulk, stoppage or interruption made by such company shall prevent the carriage of goods from being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage, or to evade any of the provisions of this Act. R.S., c. 170, s. 340.

Break in bulk, etc.

**346.** (1) Joint tariffs are, as to the filing and publication thereof, subject to the same provisions in this Act as are applicable to the filing and publication of local tariffs of a similar description, except that joint tariffs may be filed by one agent or company, duly authorized by power of attorney of the initial company; upon any such joint tariff being so duly filed with the Board, the company or companies shall, until such tariff is superseded by another tariff or disallowed by the Board, charge the toll or tolls as specified therein; the Board may except from the provisions of this section the filing and publication of any or all passenger tariffs of foreign railway companies.

Filing and publication of joint tariffs.

(2) The Board may require to be informed by the company of the proportion of the toll or tolls, in any joint tariff filed, that it or any other company, whether Canadian or foreign, is to receive or has received. R.S., c. 170, s. 341; 1929, c. 54, s. 4.

Information which Board may require.

*Inspection of Freight Classifications.*

Freight  
classifica-  
tions.

**347.** The company shall keep on file at its stations or offices, where freight is received and delivered, a copy of the freight classification, or classifications, in force upon the railway, for inspection during business hours. R.S., c. 170, s. 342.

*Presumption as to Legal Tolls.*

Tariff.

**348.** If the company files with the Board any tariff and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, the tolls under such tariff while so in force shall, in any prosecution under this Act, as against such company, its officers, agents or employees, be conclusively deemed to be the legal tolls chargeable by such company. R.S., c. 170, s. 343.

Presumed  
legal as  
against  
company.

*Special Rates for Specific Shipments.*

Regulations  
permitting.

**349.** (1) Notwithstanding anything in this Act, the Board may make regulations permitting the company to issue special rate notices prescribing tolls, lower than the tolls in force upon the railway, to be charged for specific shipments between points upon the railway, not being competitive points, if it considers that the charging of the special tolls mentioned in any such notices will help to create trade, or develop the business of the company, or be in the public interest, and not otherwise contrary to the provisions of this Act.

Notice to be  
filed with  
Board.

(2) Every such special rate notice, or a duplicate copy thereof, shall be filed with the Board, and shall exist merely for the purpose of giving effect to the special rate charged for the specific shipment mentioned therein. R.S., c. 170, s. 344.

*Reduced Rates and Free Transportation.*

**350.** (1) Nothing in this Act shall be construed to prevent

For Govern-  
ment,  
charity,  
expositions,  
etc.

(a) the carriage, storage or handling of traffic, free or at reduced rates, for the Government of Canada, or for any provincial or municipal government, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the carriage, free or at reduced rates, of destitute or homeless persons, transported by charitable societies, and the necessary agencies employed in such transportation, or the carriage at one-half the

4694

regular

regular single fare of ministers of religion or persons exclusively engaged in charitable, religious, or eleemosynary work;

- (b) the issuing of mileage, excursion or commutation passenger tickets, or the carriage at reduced rates, of immigrants or settlers and their goods or effects, or any member of any organized association of commercial travellers with his baggage; Special tickets, immigrants, commercial travellers.
- (c) railways from giving free carriage or reduced rates to their own directors, officers, agents and employees, or their families, or to former employees of any railway, or for their goods and effects, or between points within the province to members of the provincial legislatures or to members of the press, or to members of the Interstate Commerce Commission of the United States and the officers and staff of such commission, and for their baggage and equipment, or to dependent members of the families of members of the Senate and House of Commons of Canada, and members of the Board and such officers and staff of the Board as the Board may determine, and for their baggage, or to such other persons as the Board may approve or permit; Railway employees, M.P.P.'s, press, etc.
- (d) railways or transportation companies from exchanging passes or free tickets with other railways or transportation companies for their officers, agents and employees and their families, goods and effects, or from issuing passes or free tickets to officers and employees of the Department of Transport, or their families, and their goods and effects, or a similar interchange of passes, or franks with or by telegraph, telephone and cable companies; or Exchanging passes, etc.
- (e) railways from giving free carriage to the Governor General, and staff, and families, and baggage and equipment. Governor General.

(2) The carriage of traffic by the company under this section may, in any particular case, or by general regulation, be extended, restricted, limited or qualified by the Board, and the Board, in or by any order or by general regulation, may prescribe the forms to be issued or used by the company for the carriage of traffic at free or reduced rates under this Act, and the terms and conditions applicable thereto, and the records to be kept by the company of all such traffic carried and of all passes, free and reduced rate transportation issued or given by the company, and shall require the making of periodical returns duly verified by

4695

affidavit

R.S., 1952.



affidavit to the Board in respect thereof; and it is the duty of the Board to examine such returns with a view to seeing that the law has been observed.

Commuta-  
tion tickets.

(3) Whenever the Board sees fit it may require the company to grant and issue commutation tickets at such rates and on such terms as the Board may order. R.S., c. 170, s. 345; 1936, c. 34, s. 3.

Members of  
Parliament  
and Board  
etc., free.

**351.** Members of the Senate and House of Commons of Canada, with their baggage, and members of the Board and such officers and staff of the Board as the Board may determine, with their baggage and equipment, are, on production of cards, certifying their membership or right, which shall be furnished them by the Clerk of the Senate or the Clerk of the House of Commons or the Secretary of the Board, as the case may be, entitled to free transportation on any of the trains of the company; and the company shall also, when required, haul free of charge any car provided for the use of the Board. R.S., c. 170, s. 346.

No free  
passes,  
except as  
above  
provided.

**352.** Subject to the provisions of sections 350 and 351, no company shall hereafter, directly or indirectly, issue or give any free ticket or free pass, whether for a specific journey or periodical or annual pass, and no company shall otherwise arrange for or permit the transportation of passengers except on payment of the fares properly chargeable for such transportation under the tariffs filed under the provisions of this Act, and at the time in effect; but nothing in this Act affects the furnishing of free transportation where such is specifically required by any other public general Act of the Parliament of Canada. R.S., c. 170, s. 347.

### *Contracts, etc., Limiting Carriers' Liability.*

Contracts,  
etc., im-  
pairing  
carriers'  
liability.

**353.** (1) No contract, condition, by-law, regulation, declaration or notice made or given by the company, impairing, restricting or limiting its liability in respect of the carriage of any traffic, shall, except as hereinafter provided, relieve the company from such liability, unless such class of contract, condition, by-law, regulation, declaration or notice has been first authorized or approved by order or regulation of the Board.

Power of  
Board.

(2) The Board may, in any case, or by regulation, determine the extent to which the liability of the company may be so impaired, restricted or limited.

Board may  
prescribe  
terms.

(3) The Board may by regulation prescribe the terms and conditions under which any traffic may be carried by the company.



(4) Railway companies shall print in both the English and French languages the bills of lading that are to be used along their lines within the limits of the Province of Quebec. R.S., c. 170, s. 348.

Bills of lading to be in French and English in Quebec.

*Carrying Dangerous Commodities.*

**354.** (1) No passenger shall carry, nor, except in conformity with any order or regulation made by the Board in that behalf, shall the company be required to carry upon its railway, gunpowder, dynamite, nitroglycerine, or any other goods that are of a dangerous or explosive nature.

Dangerous goods.

(2) Every person who sends by the railway any such goods shall distinctly mark their nature on the outside of the package containing the same, and otherwise give notice in writing to the station agent or employee of the company whose duty it is to receive such goods and to whom the same are delivered. R.S., c. 170, s. 349.

Nature must be marked outside.

**355.** (1) The company shall not carry any goods of an explosive or dangerous nature except in conformity with the regulations made by the Board in that behalf.

Carrying regulated by Board.

(2) The company may refuse to take, except in conformity with any order or regulation made by the Board in that behalf, any package or parcel that it suspects to contain goods of an explosive or dangerous nature, or may require the same to be opened to ascertain the fact. R.S., c. 170, s. 350.

Suspected parcels.

*Carrying Her Majesty's Mail and Forces.*

**356.** Her Majesty's mail, Her Majesty's Forces and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables or others travelling on Her Majesty's service, shall, at all times, when required by the Postmaster General of Canada, the Minister or Deputy Minister of National Defence, or any person having the superintendence and command of any police force, respectively, be carried on the railway, and with the whole resources of the company if required, on such terms and conditions and under such regulations as the Governor in Council makes. 1951 (2nd Sess.), c. 7, s. 11.

Carriage of mails, troops, equipment, etc.

Regulations.

*Checking Passengers' Baggage.*

**357.** (1) A check shall be affixed by the company to every parcel of baggage, having a handle, loop or suitable means for attaching a check thereupon, delivered by a

Company to affix checks.

4697

passenger

R.S., 1952.

passenger to the company for transport; and a duplicate of such check shall be given to the passenger delivering the same.

Excess  
baggage.

(2) In the case of excess baggage the company is entitled to collect from the passenger, before affixing any such check, the toll authorized under this Act. R.S., c. 170, s. 352.

*Passenger Employees to wear Badges.*

Not en-  
titled to  
exercise  
office with-  
out badge.

**358.** Every employee of the company employed in a passenger train or at a passenger station shall wear upon his hat or cap a badge, which shall indicate his office, and he is not, without such badge, entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property. R.S., c. 170, s. 353.

*Passengers refusing to pay Fare.*

Expulsion.

**359.** Every passenger who refuses to pay his fare or produce and deliver up his ticket upon the request of the conductor may, by the conductor of the train and the train servants of the company, be expelled from and put out of the train, with his baggage, at any usual stopping place, but the conductor shall first stop the train and use no unnecessary force. R.S., c. 170, s. 354.

*Collection of Tolls.*

May be  
enforced in  
any court.

**360.** In case of refusal or neglect of payment on demand of any lawful tolls, or any part thereof, the same are recoverable in any court of competent jurisdiction. R.S., c. 170, s. 355.

Seizure and  
sale of  
goods sub-  
ject to  
tolls.

**361.** (1) The company may, instead of proceeding as aforesaid for the recovery of such tolls, seize the goods for or in respect whereof such tolls are payable, and may detain the same until payment thereof, and in the meantime the said goods are at the risk of the owners thereof.

Sale of  
goods.

(2) If the tolls on live animals or goods liable to deteriorate or perish while in the possession of the company are not paid forthwith on demand, or if the tolls on bulk goods, as hereinafter defined, are not paid within two weeks after demand, or if the tolls on any other goods are not paid within four weeks after demand, the company may, without further notice to the consignee or owner advertise and sell the whole or any part of the goods and out of the money realized from such sale retain the tolls payable and all reasonable charges and expenses of such seizure, detention, advertisement and sale.

Application  
of proceeds.

(3) For the purposes of subsection (2) "bulk goods" means carload lots of coal, coal products, wood, sand, gravel, brick, scrap metal, and of such other goods as may be approved by the Board. "Bulk goods" defined.

(4) The company shall pay or deliver the surplus, if any, or such of the goods as remain unsold, to the person entitled thereto and may recover the deficiency, if any, by action in any court of competent jurisdiction. R.S., c. 170, s. 356; 1930, c. 36, s. 4. Surplus.

**362.** (1) If any goods remain in possession of the company unclaimed for the space of twelve months, the company may thereafter, and on giving public notice thereof by advertisement for six weeks in the official gazette of the province in which such goods are, and in such other newspapers as it deems necessary, sell such goods by public auction, at a time and place which shall be mentioned in such advertisement, and, out of the proceeds thereof, pay such tolls and all reasonable charges for storing, advertising and selling such goods. Unclaimed goods. Sale. Proceeds.

(2) The balance of the proceeds, if any, shall be kept by the company for a further period of three months, to be paid over to any person entitled thereto. Balance.

(3) In default of such balance being claimed before the expiration of the period last aforesaid, the same shall be deposited with the Minister of Finance for the public uses of Canada. If unclaimed.

(4) Such balance may be claimed by the person entitled thereto at any time within six years from the date of such deposit. R.S., c. 170, s. 357. Limitation of time for claim.

### *Traffic by Water.*

**363.** The provisions of this Act, in respect of tolls, tariffs and joint tariffs, so far as deemed applicable by the Board, extend and apply to the traffic carried by any railway company by sea or by inland water, between any ports or places in Canada, if the company owns, charters, uses, maintains or works, or is a party to any arrangement for using, maintaining or working vessels for carrying traffic by sea or by inland water between any such ports or places. R.S., c. 170, s. 358. When Act applies to.

### *Tolls and Traffic on Bridges and Tunnels..*

**364.** The provisions of this Act in respect of tolls, tariffs and traffic, in so far as the Board deems them applicable, extend and apply to Provisions apply to:



Bridge or  
tunnel  
company;

(a) any company that has power under any Special Act to construct, maintain and operate any bridge or tunnel for railway purposes, or for railway and traffic purposes, and to charge tolls for traffic carried over, upon or through such structure by any railway, and

Traffic.

(b) the traffic so carried over, upon or through such structure. R.S., c. 170, s. 359.

#### EXPRESS BUSINESS.

#### *Express Tolls and Tariffs.*

Approval  
of tolls.

**365.** (1) All express tolls are subject to the approval of the Board.

Powers of  
Board.

(2) The Board may disallow any express tariff or any portion thereof that it considers unjust or unreasonable, and has and may exercise all such powers with respect to express tolls and such tariffs as it has or may exercise under this Act with respect to freight tolls and freight tariffs; and all the provisions of this Act applicable to freight tolls and freight tariffs, in so far as such provisions are applicable and not inconsistent with the provisions of this section and sections 366 to 370, apply to express tolls and tariffs. R.S., c. 170, s. 360.

Application  
of Act.

Tariff  
of tolls.

**366.** Tariffs of such express tolls shall be filed with the Board and shall be in such form, size and style and give such information, particulars and details as the Board, from time to time, by regulation or by order in any particular case, prescribes. R.S., c. 170, s. 361.

Goods not  
to be car-  
ried until  
tariff is  
filed, or  
after dis-  
allowance.

**367.** No company shall carry or transport any goods by express, unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner hereinbefore provided; or in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto; or in any case where such express toll in any tariff has been disallowed or suspended by the Board. R.S., c. 170, s. 362.

Tolls not  
to be  
charged  
until filed  
and  
approved.

**368.** No express toll shall be charged in respect of which there is default in such filing, or which is disallowed or suspended by the Board. R.S., c. 170, s. 363.

#### *Board may define Carriage by Express.*

Board may  
define car-  
riage by  
express.

**369.** The Board may by regulation, or in any particular case, prescribe what is carriage or transportation of goods by express, or whether goods are carried or transported by



express within the meaning of this Act, and may order that all such goods as the Board may think proper shall be carried by express. R.S., c. 170, s. 364.

*Contracts Limiting Liability of Express Companies.*

**370.** (1) No contract, condition, by-law, regulation, declaration or notice made or given by any company or any person or corporation charging express tolls impairing, restricting or limiting the liability of such company, person or corporation with respect to the collecting, receiving, caring for or handling of any goods for the purpose of sending, carrying or transporting them by express, or for or in connection with the sending, carrying, transporting or delivery by express of any goods, has any force or effect unless first approved by order or regulation of the Board.

Conditions limiting liability to be approved by Board.

- (2) The Board may in any case or by regulation
- (a) determine the extent to which the liability of such company, person or corporation may be so impaired, restricted or limited, and
  - (b) prescribe the terms and conditions under which goods may be collected, received, cared for or handled for the purpose of sending, carrying or transporting them by express, or under which goods may be sent, carried, transported or delivered by express by any such company, person or corporation. R.S., c. 170, s. 365.

Regulation of carriage by express.

*Returns by Companies Charging Express Tolls.*

**371.** (1) Every company and every person and corporation charging express tolls shall make to the Board an annual return of its capital, business and working expenditure, and such other information and particulars, including a statement of unclaimed goods, as the Board directs.

Annual return by company.

(2) Such return shall be made in such form, covering such period, and at such time, and shall be published in such manner, as the Board from time to time directs. R.S., c. 170, s. 366.

Form, etc., of return.

TELEGRAPHS, TELEPHONES, POWER AND ELECTRICITY.

*Telegraphs and Telephones on Railway for Railway Purposes.*

**372.** (1) The railway company may, as incidental to and as part of its undertaking, construct and operate telegraph and telephone lines upon its railway for the purposes of its undertaking.

Telegraph and telephone lines.

Arrange-  
ments with  
other com-  
panies.

(2) The railway company may, for the purpose of operating such lines or exchanging and transmitting messages, enter into contracts with any companies having telegraph or telephone powers, and may connect its own lines with the lines of any such companies, or may lease its own lines to any such companies.

Part II of  
*Telegraphs  
Act* to  
apply.

(3) Part II of the *Telegraphs Act* applies to the telegraphic business of the railway company. R.S., c. 170, s. 367.

### *Special Powers of Railway Companies.*

Electric  
and other  
power.

**373.** Whenever in any Special Act passed after the 7th day of July, 1919, it is stated or provided that a railway company has power to acquire, transmit and distribute electric and other power or energy, such company, subject to the provisions of this Act, may for the purposes of its undertaking acquire, but not by expropriation, electric and other power or energy, and transmit and deliver the same to any place in the municipalities through which the railway is built, and receive, transform, transmit, distribute and supply such power or energy in any form; and may dispose of the surplus thereof, and collect rates and charges therefor, but no such rate or charge shall be demanded or taken until it has been approved of by the Board, and the Board may revise such rates and charges whenever it deems proper. R.S., c. 170, s. 368.

Telegraphs  
and tele-  
phones.

**374.** (1) Whenever in any Special Act passed after the 7th day of July, 1919, it is stated or provided that a railway company has power to transmit telegraph and telephone messages for the public and collect tolls therefor, such company may, subject to the provisions of this Act, construct and operate telegraph and telephone lines upon its railway, and establish offices for and undertake the transmission of messages for the public, and collect tolls therefor; and for the purpose of operating such lines or exchanging or transmitting messages, may, subject to the provisions of this Act, enter into contracts with any companies having telegraph or telephone powers and may connect its own lines with the lines of, or may lease its own lines to, any such companies.

Tolls sub-  
ject to  
Act.

(2) No toll or charge shall be demanded or taken for the transmission of any message or for leasing or using the telegraphs or telephones of such company except in accordance with section 381, and the said company and its said business and works are in all respects subject to the provisions of the said section.

(3) Part II of the *Telegraphs Act*, except such portions thereof as are inconsistent with this Act, applies to the telegraphic business of such company. R.S., c. 170, s. 369.

Part II of  
*Telegraphs*  
*Act* to apply.

**375.** No power conferred as mentioned in sections 373 and 374 and nothing in the said sections or in the *Telegraphs Act*, authorizes such company to construct or operate any line along any highway or public place, without first obtaining the consent, expressed by by-law, of the municipality having jurisdiction over such highway or public place, nor without complying with any terms stated or provided for in such by-law, or authorize such company to sell, dispose of or distribute power or energy within or for use within the limits of any municipality, without the consent, expressed by by-law, of such municipality. R.S., c. 170, s. 370.

Control of  
municipi-  
pality.

*Telephone Connection with Railway Stations.*

**376.** (1) Whenever any province, municipality, corporation or incorporated company has authority to construct, operate and maintain a telephonic system in any district, and is desirous of obtaining telephonic connection or communication with or within any station or premises of a railway company in such district, and cannot agree with such company with respect thereto, such province, municipality, corporation or incorporated company may apply to the Board for leave therefor.

Municipal  
and other  
systems,  
connection  
with sta-  
tions, etc.

(2) The Board may also upon the application of any interested party authorize any telephone company operated by any province, municipality or incorporated company to install at its own expense telephone connection with any station of the company, the annual charge, if any, to be paid by the company for such service and all other terms or conditions connected therewith to be such as the Board may determine, having regard to all local conditions, but in no case is such charge to exceed the customary local rate.

Board may  
order upon  
terms.

(3) Notwithstanding anything in any Act, the Board, in determining the terms or compensation upon which any such connection or communication is to be provided for, shall not take into consideration any contract, lease or agreement now or hereafter in force by which the railway company has given or gives any exclusive or other privilege to any company or person, other than the applicant, with respect to any such station or premises. R.S., c. 170, s. 371.

Contracts  
giving  
exclusive  
privileges  
not to be  
taken into  
considera-  
tion.



*Putting Wires Across Railways or Other Wires.*

Leave of  
Board.

**377.** (1) Lines, wires, other conductors, or other structures or appliances for telegraphic or telephonic purposes, or for the conveyance of power or electricity for other purposes, shall not, without leave of the Board, except as provided in subsection (5), be constructed or maintained

(a) along or across a railway, by any company other than the railway company owning or controlling the railway, or

(b) across or near other such lines, wires, conductors, structures or appliances that are within the legislative authority of the Parliament of Canada.

Plans to  
be sub-  
mitted.

(2) Upon any application for such leave, the applicant shall submit to the Board a plan and profile of the part of the railway or other work proposed to be affected, showing the proposed location and the proposed works.

Powers of  
Board.

(3) The Board may grant the application and may order the extent to which, by whom, how, when, on what terms and conditions, and under what supervision, the proposed works may be executed.

Authority  
for works.

(4) Upon such order being made the proposed works may be constructed and maintained subject to and in accordance with such order.

When  
leave not  
required.

(5) Leave of the Board under this section is not necessary for the exercise of the powers of a railway company under section 372, nor for the maintenance of works now authorized, nor when works have been or are to be constructed or maintained by consent and in accordance with any general orders, regulations, plans or specifications adopted or approved by the Board for such purposes. R.S., c. 170, s. 372.

*Putting Lines or Wires Across or Along Highways, etc.*

Lines and  
wires on  
highways  
and public  
places.

**378.** (1) Subject to the provisions of this section, any company empowered by Special Act or other authority of the Parliament of Canada to construct, operate and maintain telegraph or telephone lines, may, for the purpose of exercising the said powers, enter upon, and, as often as the company thinks proper, break up and open any highway, square or other public place, but

Conditions.  
Travel and  
access.

(a) such company shall not interfere with the public right of travel, or in any way obstruct the entrance to any door or gateway or free access to any building;

Height of  
wires.

(b) in cities, towns and incorporated or police villages such company shall not permit any wire to be less than twenty-two feet, or less than any greater height that the Board may direct, above such highway or

4704

public



- public place; nor shall it in any municipality permit any wire that crosses any highway or public place to be less than eighteen feet, or less than any greater height the Board may direct, above such highway or public place; nor shall it permit any wire that crosses or is adjacent to any private way, entrance or lane used for vehicular traffic to be less than seventeen feet or less than any greater height the Board may direct above such private way, entrance or lane; or erect more than one line of poles along any highway;
- (c) all poles shall be as nearly as possible straight and perpendicular, and shall, in cities and towns, be painted; Poles.
- (d) such company shall not unnecessarily nor without giving at least ten days previous notice to the owner thereof or to the municipality, nor in any case where forbidden by the Board, cut down or mutilate any shade, fruit or ornamental trees, but the Board may when it deems proper dispense with such notice and may in any case make any order or direction it deems fit respecting such trees; Trees.
- (e) the opening up of any street, square, or other public place for the erection of poles, or for the carrying of wires underground, shall be subject to the supervision of such persons as the municipal council may appoint, and such street, square or other public place shall, without any unnecessary delay, be restored, as far as possible, to its former condition; Super-  
vision.  
  
Restoration.
- (f) if for the purpose of removing buildings, or in the exercise of the public right of travel, it is necessary that the said wires or poles be temporarily removed by cutting or otherwise, such company shall, at its own expense, upon reasonable notice in writing from any person requiring it, remove such wires and poles; and in default of such company so doing such person may remove such wires and poles at the expense of such company; Where  
necessary  
to cut wires  
or remove  
poles.
- (g) such company is responsible for all unnecessary damage that it causes in carrying out, maintaining or operating any of its said works; Damage.
- (h) such company is not entitled to damages on account of its poles or wires being cut by direction of the officer in charge of the fire brigade at any fire, if, in the opinion of such officer, it is advisable that such poles or wires be cut; and Wires cut  
in case of  
fire.
- (i) every person employed upon the work of erecting or repairing any line or instrument of such company shall have conspicuously attached to his dress a badge, Workmen  
to wear  
badges.

on which are legibly inscribed the name of such company and a number by which he can be readily identified.

Consent of  
Municipality.

(2) Notwithstanding anything in any Act of the Parliament of Canada or of the legislature of any province, or any power or authority heretofore or hereafter conferred thereby or derived therefrom, no telegraph or telephone line, within the legislative authority of the Parliament of Canada shall, except as hereinafter in this section provided, be constructed by any company upon, along, across or under any highway, square or other public place, without the legal consent of the municipality having jurisdiction over such highway, square or public place.

Leave of  
Board.

(3) If any company cannot, in respect of any such line, obtain such consent from such municipality, or cannot obtain such consent otherwise than subject to terms and conditions not acceptable to the company, such company may apply to the Board for leave to exercise such powers, and upon such application shall submit to the Board a plan of such highway, square or other public place showing the proposed location of such lines, wires and poles.

Powers of  
Board.

(4) The Board may refuse or may grant such application in whole or in part, and may change or fix the route of such lines, wires or poles, and may by order impose any terms, conditions or limitations in respect of the application that it deems expedient, having due regard to all proper interests.

Exercise of  
powers.

(5) Upon such order being made, and subject to any terms imposed by the Board, such company may exercise such powers in accordance with such order, and shall in the performance and execution thereof, or in the repairing, renewing or maintaining of such lines, wires or poles, conform to and be subject to the provisions of subsection (1), except in so far as the said provisions are expressly varied by order of the Board.

Board may  
order wires  
placed  
under-  
ground.

(6) Notwithstanding any power or authority heretofore or hereafter conferred upon any company by or under any Act of the Parliament of Canada, or of the legislature of any province, or any other authority, the Board, upon the application of the municipality, and upon such terms and conditions as the Board may prescribe, may order any telegraph or telephone line, within the legislative authority of the Parliament of Canada, in any municipality or any portion thereof, to be placed underground, and may order any extension or change in the location of any such line or any portion thereof, and the construction of any new line, and may abrogate the right of any such company to construct or maintain, or to operate or continue, any such line,

or any pole of other works belonging thereto, except as directed by the Board; and where such a line or lines within the legislative authority of the Parliament of Canada and such a line or lines within the legislative authority of a province, run through or into the same municipality, and the municipality is desirous of having any of the lines placed underground, and there exists in such province a provincial commission, public utilities or other board or body having power to order such a line within the legislative authority of such province to be placed underground, the Board and the provincial commission, or public utilities board or body, may by joint session or conference, or by joint board, order any of the lines to be placed underground, and abrogate any right to carry the same on poles, and the provisions of subsection (3) of section 256, with the necessary adaptation, apply to every such case.

(7) Where the Board makes an order under subsection (6) and a company requires additional lands for the purpose of enabling it to comply with the order, the company may apply to the Board for authority to take the additional lands necessary for such purpose without the consent of the owner, and subsections (2) to (7) of section 203 apply, *mutatis mutandis*, to the taking of the additional lands.

(8) Where a municipality or landowner desires to obtain means of drainage or the right to lay water-pipes or other pipes, temporarily or permanently, through, along, upon, across or under any telegraph or telephone line within the legislative authority of the Parliament of Canada or any lands forming part of or used in connection with such telegraph or telephone line, the Board may, upon the application of the municipality or landowner, permit the construction of the drainage or the laying of the pipes upon such terms and conditions as the Board may consider proper.

(9) Except as provided in subsections (6) and (8) nothing in this section affects the right of any telegraph or telephone company to operate, maintain, renew or reconstruct underground or overhead systems or lines, heretofore constructed.

(10) Nothing in this section authorizes, or gives power to authorize, any company to construct or operate any line or works along any highway or public place without the consent of the municipality having jurisdiction thereover in any case where

(a) the Special Act applying to such company requires such consent, or

(b) the provisions of section 373, 374 or 375 apply to such company and require such consent;



and where such consent is so required the provisions respecting the same shall be complied with. R.S., c. 170, s. 373; 1948, c. 27, s. 2.

*Price and Supply of Certain Power.*

In disputes between lessee of water-power and applicant for electricity Board may fix price.

**379.** (1) In any case where water-power has been acquired under lease from the Crown for the development of electrical energy, and the lessee from the Crown of such water-power and the applicant for the purchase of electrical energy so developed cannot agree as to the quantity to be sold by the lessee to the applicant, and the price to be paid by the applicant to the lessee for such quantity, or either, as the case may be, the Board shall determine and fix the quantity and the price to be paid therefor, or either, as the case may be, and the lessee shall sell, supply and furnish, if the applicant shall then require it, such quantity, and at the price so determined and fixed, as the case may be.

Powers of Board for such purpose.

(2) For the purpose of determining and fixing such quantity or such price, the Board may enter on and inspect the property leased from the Crown and all erections and machinery thereon, and may examine all papers, documents, vouchers, records and books of every kind, and may order and require the lessee and any other person to attend before the Board and be examined on oath and to produce all papers, documents, vouchers, records and books of every kind; and for the purpose aforesaid, the Board has all such powers, rights and privileges as are vested in a superior court.

Application of section limited.

(3) This section does not apply to any case where the water-power leased from the Crown has been acquired for, and is used in the development of electrical energy for the direct and immediate industrial or manufacturing operations of the lessee. R.S., c. 170, s. 374.

*Provisions Governing Telegraphs and Telephones.*

Interpretation.  
"Company."

**380.** (1) In this section,

(a) "company" means a railway company or person authorized to construct or operate a railway, having authority to construct or operate a telegraph or telephone system or line, and to charge telegraph or telephone tolls, and includes also telegraph and telephone companies and every company and person within the legislative authority of the Parliament of Canada having power to construct or operate a telegraph or telephone system or line and to charge telegraph or telephone tolls; and

4708

(b)



(b) "Special Act" means any Act under which the company has authority to construct or operate a telegraph or telephone system or line, or which is enacted with special reference to any such system or line, and any letters patent constituting a company's authority to construct or operate a telegraph or telephone system or line, granted under any Act, and the Act under which such letters patent were granted, and includes the *Telegraphs Act* and any general Act relating to telegraphs or telephones. "Special Act."

(2) Notwithstanding anything in any Act passed before the 7th day of July, 1919, all telegraph and telephone tolls to be charged by the company, and all charges for leasing or using the telegraphs or telephones of the company, are subject to the approval of the Board, and may be revised by the Board from time to time; this subsection does not apply to the use of telegraph or telephone wires where no toll is charged to the public. Tolls subject to approval. Exception, private wires.

(3) The company shall file with the Board tariffs of any telegraph or telephone tolls to be charged, and such tariffs shall be in such form, size and style, and give such information, particulars and details, as the Board, from time to time, by regulation, or in any particular case, prescribes, and unless with the approval of the Board, the company shall not charge and is not entitled to charge any telegraph or telephone toll in respect of which there is default in such filing, or which is disallowed by the Board; but any company, previous to the 1st day of May, 1908, charging telegraph or telephone tolls, may, without such filing and approval, for such period as the Board allows, charge such telegraph or telephone tolls as such company was immediately previous to the said date authorized by law to charge, unless where the Board has disallowed or disallows such tolls. Filing of tariffs.

(4) Such telegraph and telephone tolls may be dealt with by the Board in the same manner as is provided by this Act with respect to freight tariffs, and all the provisions of this Act, except section 336, applicable to companies thereunder with respect to freight tariffs and tolls shall in so far as they are applicable, and not inconsistent with the provisions of this section, apply to the company with respect to such telephone and telegraph tariffs and tolls. Provisions applying to tolls.

(5) The Board may permit the classification of telegraph, telephone and cable messages into such classes as it deems just and reasonable, and may permit different rates to be charged for such different classes. Classification of messages.

Tolls, rates  
and services.

(6) The Board may, from time to time upon application, deal with all questions of unreasonableness or unjust discrimination in respect of telephone tolls resulting from the establishment, redivision and readjustment of the boundaries of any base rate area or telephone exchange area and, where it considers such tolls to be unreasonable or unjust or contrary to any of the provisions of this Act, may require the company to substitute tolls satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls published by the company.

Publication  
of tariffs.

(7) The Board may, by regulation or otherwise, determine and prescribe the manner and form in which any tariff or tariffs of telegraph or telephone tolls shall be published or kept open for public inspection.

Con-  
nections with  
other  
systems,  
power of  
Board to  
order.

(8) Whenever any company or any province, municipality or corporation, having authority to construct and operate, or to operate, a telephone system or line and to charge telephone tolls, whether such authority is derived from the Parliament of Canada or otherwise, is desirous of using any telephone system or line owned, controlled or operated by the company, in order to connect such telephone system or line with the telephone system or line operated or to be operated by such first mentioned company, or by such province, municipality or corporation for the purpose of obtaining direct communication, whenever required, between any telephone or telephone exchange on the one telephone system or line and any telephone or telephone exchange on the other telephone system or line, and cannot agree with the company with respect to obtaining such use, connection or communication, such first mentioned company or province, municipality or corporation may apply to the Board for relief, and the Board may order the company to provide for such use, connection or communication, upon such terms, including compensation if any, as the Board deems just and expedient, and may order and direct how, when, where, by whom, and upon what terms and conditions such use, connection, or communication shall be had, constructed, installed, operated and maintained.

Local con-  
versations  
over com-  
peting  
systems.

(9) No order made under subsection (8) applies to the interchange of local conversations between persons using the telephones of two competing systems or lines where such systems or lines terminate upon switch-boards located within the municipal limits of the same city, town or village, except in the case of rural party line telephones in non-competitive areas, and then only when the Board deems such interchange to be desirable and practicable.

(10) Upon any such application the Board shall, in addition to any other consideration affecting the case, take into consideration the standards, as to efficiency and otherwise, of the apparatus and appliances of such telephone systems or lines, and shall only grant the leave applied for in case and in so far as, in view of such standards, the use, connection or communication applied for can, in the opinion of the Board, be made or exercised satisfactorily and without undue or unreasonable injury to or interference with the telephone business of the company, and where in all the circumstances it seems just and reasonable to grant the same.

Standards of apparatus to be considered.

(11) Where the telephone system or line operated by the company is used or connected, for purposes of communication as aforesaid, with the telephone system or line operated by any other company or by any such province, municipality or corporation, whether the authority of such company, province, municipality or corporation to construct and operate or to operate such telephone system or line is derived from the Parliament of Canada or otherwise, and whether such connection or communication has been previously or is hereafter established either by agreement of the parties or under an order of the Board, the provisions of this Act with respect to joint tariffs, in so far as they are applicable and not inconsistent with this section or the Special Act, apply to such company or companies and to such province, municipality or corporation; and the Board has, for the enforcement of its orders in this respect, in addition to all other powers possessed by it therefor, the power to order a discontinuance of such connection or communication between such different telephone systems or lines.

Application of provisions as to joint tariff.

Enforcement of orders.

(12) All contracts, agreements and arrangements between the company and any other company, or any province, municipality or corporation having authority to construct or operate a telegraph or telephone system or line, whether such authority is derived from the Parliament of Canada or otherwise, for the regulation and interchange of telegraph or telephone messages or service passing to and from their respective telegraph or telephone systems and lines, or for the division or apportionment of telegraph or telephone tolls, or generally in relation to the management, working or operation of their respective telegraph or telephone systems or lines, or any of them, or any part thereof, or of any other systems or lines operated in connection with them or either of them, are subject to the approval of the Board,

Working agreements to be approved by Board.



and shall be submitted to and approved by the Board before such contract, agreement or arrangement has any force or effect.

Application  
of provis-  
ions of Act.

(13) Without limitation of the generality of this subsection by anything contained in the preceding subsections, the jurisdiction and powers of the Board, and, in so far as reasonably applicable and not inconsistent with this section or the Special Act, the provisions of this Act respecting such jurisdiction and powers, and respecting proceedings before the Board and appeals to the Supreme Court or Governor in Council from the Board, and respecting offences and penalties, and the other provisions of this Act, except sections 73 to 273, 275 to 285, 290 to 316, 326, 354 to 359, 365 to 371, 401 to 431, 456 to 464, extend and apply to all companies as in this section defined, and to all telegraph and telephone systems, lines and business of such companies within the legislative authority of the Parliament of Canada; and in and for the purposes of such application

Interpreta-  
tion.  
"Company."

(a) "company" or "railway company" means a company as in subsection (1) defined;

"Railway."

(b) "railway" means all property real and personal and works forming part of or connected with the telegraph or telephone system or line of the company;

"Special  
Act."

(c) "Special Act" means a Special Act as in subsection (1) defined;

"Toll."

(d) "toll" or "rate" means telegraph or telephone toll; and

"Rate."

"Traffic."

(e) "traffic" means the transmission of and other dealings with telegraphic and telephonic messages. R.S., c. 170, s. 375; 1938, c. 12, s. 1; 1951 (2nd Sess.), c. 22, s. 12.

### *Marine Electric Telegraphs or Cables.*

Marine  
tele-  
graphs and  
cables, when  
Act to  
apply to.

**381.** (1) After this section is brought into effect, section 380 extends and applies to marine electric telegraphs or cables; and

"Tele-  
graph."

(a) "telegraph" in the said section includes marine electric telegraph or cable;

"Telegraph  
toll."

(b) "telegraph toll" in the said section includes any toll, rate or charge to be charged by the company to the public or to any person for the transmission of messages by any marine electric telegraph or cable system whereby messages are transmitted from, to or through Canada;

"Traffic."

(c) "traffic" in the interpretation provided for by subsection (13) of the said section, and as the application of the said section is extended by the coming into force of this section, includes messages transmitted from



Canada to any other country by means of any marine electric telegraph or cable line; or to Canada from any other country by the like or similar means; or through, or into, or from any part of Canada by means of any marine electric telegraph or cable lines acting in conjunction with land lines or by land lines acting in conjunction with marine electric telegraph or cable lines, by means of a through route or otherwise.

(2) Every company to which this section applies has four months after this section comes into force within which to file and obtain approval of its tariffs and tolls; but the Board may, upon application and upon good and sufficient ground being shown, extend such time to a period not exceeding one year, including the said four months. Four months to obtain approval of tariffs.

(3) This section shall come into force upon similar provision being made by the proper authority in Great Britain, and upon proclamation of the Governor in Council. R.S., c. 170, s. 376. Coming into force.

### *Government Use and Construction of Telegraphs and Telephones.*

**382.** (1) Every railway, telegraph and telephone company shall, when required so to do by the Governor in Council, or any person authorized by him, place at the exclusive use of the Government of Canada any electric telegraph and telephone lines, and any apparatus and operators which it has. Government may have exclusive use.

(2) Such company is thereafter entitled to receive reasonable compensation for such service. R.S., c. 170, s. 377. Compensation.

**383.** The Governor in Council may, at any time, cause a line or lines of electric telegraph or telephone to be constructed along the line of any railway, for the use of the Government of Canada, and for that purpose, may enter upon and occupy so much of the lands of the company as is necessary for the purpose. R.S., c. 170, s. 378. Government may erect wires on railway.

### STATISTICS AND RETURNS.

**384.** (1) Every railway, telegraph, telephone and express company and every carrier by water shall annually prepare returns, in accordance with the forms and classifications for the time being required by the Board, of its assets, liabilities, capitalization, revenues, working expenditures and traffic. Annual returns.

Attestation.

(2) Such returns shall be dated and signed by and attested upon the oath of the secretary, or some other chief officer of the company or carrier by water, and shall also be attested upon the oath of the president, or in his absence, of the vice-president or manager of the company or carrier by water, or shall be signed and attested by such other person or persons as the Board may direct.

Period included.

(3) Such returns shall be made for the period beginning from the date to which the then last yearly returns made by the company or carrier by water extend, or if no such returns have been previously made, from the commencement of the operation of the railway, or other works, or undertaking, and ending with the last day of December in the year, or other interval, for which the returns are to be made, or with such other date as the Board may direct.

Duplicate for Dominion Statistician.

(4) A duplicate copy of such returns, dated, signed and attested in manner aforesaid, shall be forwarded by such company to the Dominion Statistician within one month after the 1st day of February in each year, or within one month after any other date directed by the Board under subsection (3). R.S., c. 170, s. 379; 1951 (2nd Sess.), c. 22, s. 13.

Traffic returns monthly.

**385.** (1) Every railway, telegraph, telephone and express company and every carrier by water, if required by the Board so to do, shall prepare monthly returns of its revenues, working expenditure and traffic and all other information that may be required.

Form.

(2) Such returns shall be in accordance with the forms for the time being required by the Board.

Copy to Statistician.

(3) A copy of such returns, signed by the officer of the company or carrier responsible for the correctness of such returns, shall be forwarded by the company or carrier to the Dominion Statistician within seven days from the day to which the said returns have been prepared.

Extension of time.

(4) The Board may in any case extend the time within which such returns shall be forwarded. R.S., c. 170, s. 380; 1951 (2nd Sess.), c. 22, s. 14.

Statistical procedure.

**386.** The Board shall institute and maintain a statistical procedure designed to provide the data necessary for the performance of its duties. 1951 (2nd Sess.), c. 22, s. 15.

Board to prescribe uniform classification and system of accounts.

**387.** (1) The Board shall prescribe for the Canadian National Railway Company and the Canadian Pacific Railway Company a uniform classification and system of accounts and returns of their assets, liabilities, revenues and working expenditure that relate to railway operations.

(2) The Board may prescribe for any other railway company within the legislative authority of the Parliament of Canada a uniform classification and system as described in subsection (1), or a condensed form thereof. Idem.

(3) The Board shall prescribe the items that shall be classed as items relating to railway operations in the accounts and returns. Items to be classed as railway accounts.

(4) The Board shall prescribe the classes of property for which depreciation charges may properly be included under operating expenses in the accounts, and the rate or rates of depreciation that shall be charged with respect to each of the classes of property. Depreciation.

(5) The Board or person appointed or directed by the Board under this Act to make an inquiry or report may inspect and take copies of the accounts and other documents of any railway company within the legislative authority of the Parliament of Canada. Inspection of accounts.

(6) Every railway company for which the uniform or condensed classification and system of accounts and returns is prescribed shall keep its accounts in accordance with the prescribed classification and system. 1951 (2nd Sess.), c. 22, s. 15. Railway company to keep accounts as prescribed.

**388.** (1) Every railway, telegraph, telephone and express company and every carrier by water shall annually, or more frequently if the Board so requires, make to the Board, under the oath of the president, secretary or superintendent of the company, or carrier, or of such other person as the Board may direct, a true and particular return of all accidents and casualties, whether to persons, or to animals or other property, which have occurred on the property or in connection with the operation of the undertaking of the company, or carrier, setting forth Annual returns of accidents showing—

- (a) the causes and nature of such accidents and casualties; Causes and nature.
- (b) the points at which such accidents and casualties occurred, and whether by night or by day; and Locality and time.
- (c) the full extent of such accidents and casualties and all the particulars thereof. Extent and particulars.

(2) Such returns shall be made for the period beginning from the date to which the then last yearly returns made by the company or carrier extend, or if no such returns have been previously made, from the commencement of the operation of the railway, or undertaking, and ending with the last day of December in the then current year. Period for which returns made.



Copies of  
returns.

(3) A duplicate copy of such returns, dated, signed and attested in manner aforesaid, shall be forwarded by such company or carrier to the Dominion Statistician within one month after the 1st day of February in each year.

Copies of  
by-laws.

(4) Every such company and every carrier by water shall also, when required by the Board return a true copy of the existing by-laws of the company, or carrier, and of its rules and regulations for the management of the company or carrier, and of its railway, or of such other undertaking or business as it is authorized to carry on.

Form.

(5) The Board may order and direct the form in which such returns shall be made up. R.S., c. 170, s. 381.

Board may  
require  
further  
returns as  
to acci-  
dents.

**389.** The Board may order and direct any railway company to make up and deliver to the Board, from time to time, in addition to the said periodical returns, returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the Board deems necessary and requires for their information with a view to public safety. R.S., c. 170, s. 382.

Returns  
privileged.

**390.** All returns made in pursuance of any of the provisions of sections 384 to 389 are privileged communications, and are not evidence in any court whatsoever, except in any prosecution for

Exceptions.

- (a) default in making such returns in accordance with the requirements of this Act;
- (b) perjury in making any oath required by this Act in connection with such returns;
- (c) forgery of any such return; or
- (d) signing any such return knowing the same to be false. R.S., c. 170, s. 383; 1951 (2nd Sess.), c. 22, s. 16.

#### *To the Board.*

Board may  
require  
returns.

**391.** (1) The Board may, from time to time, by notice served upon any railway, telegraph, telephone or express company or any officer, servant or agent of such company, require it, or such officer, servant or agent, to furnish the Board, at or within any time stated in such notice, a written statement or statements showing in so far, and with such detail and particulars, as the Board requires

Assets and  
liabilities.  
Stock.

- (a) the assets and liabilities of such company;
- (b) the amount of its stock issued and outstanding, and the date at which any such stock was so issued;



- (c) the amount and nature of the consideration received by such company for such issue, and, in case the whole of such consideration was not paid to such company in cash, the nature of the service rendered to or property received by such company for which any stock was issued; Consideration for stock.
  - (d) the gross earnings or receipts or expenditure by such company during any periods specified by the Board, and the purposes for which such expenditure was made; Earnings and expenditures.
  - (e) the amount and nature of any bonus, gift, or subsidy, received by such company from any source whatsoever; and the source from which, and the time when, and the circumstances under which, the same was so received or given; Bonuses and subsidies.
  - (f) the bonds issued at any time by such company, and what portion of the same are outstanding and what portion, if any, have been redeemed; Bonds.
  - (g) the amount and nature of the consideration received by such company for the issue of such bonds; Consideration.
  - (h) the character and extent of any liabilities outstanding chargeable upon the property or undertaking of such company, or any part thereof, and the consideration received by such company for any such liabilities, and the circumstances under which the same were created; Liabilities.
  - (i) the cost of construction of such company's railway or other works or any part thereof; Cost of construction.
  - (j) the amount and nature of the consideration paid or given by such company for any property acquired by it; Cost of property.
  - (k) the particulars of any lease, contract or arrangement entered into, or at any time having been entered into, and the particulars of any financial or business relations relevant to any matter within the jurisdiction of the Board existing, or at any time having existed between such company and any other company or person; and Leases and contracts.
  - (l) generally, the extent, nature, value and particulars of the property, earnings and business of such company. Generally.
- (2) The Board may summon, or require the attendance of and examine under oath, any officer, servant or agent of such company or of any other company within the legislative authority of the Parliament of Canada, or person, as to any matters included in such return, or which were required by notice aforesaid to be returned to the Board, and as to any matter or thing that, in the opinion of the Board, is relevant to such return, or to any inquiry that the Board deems it expedient to make in connection with any of the matters in this section aforesaid; and for such

purposes may require the production to the Board of any books or documents in the control of such company or any such other company, or in the control of any such officer, servant, agent or person.

Informa-  
tion for  
use of  
Board only.

(3) Any information furnished to the Board by any such return, or any evidence taken by the Board in connection therewith, shall not be open to the public, or published, but shall be for the information of the Board only.

And  
Governor  
in Council.

(4) The Governor in Council may nevertheless require the Board to communicate to him in Council any or all information obtained by it in the manner aforesaid.

Board  
may make  
information  
public on  
notice to  
company.

(5) The Board may authorize any part of such information to be made public when, and in so far as, there may appear to the Board to be good and sufficient reasons for so doing; but if the information so proposed to be made public by the Board is of such character that such company or any other company within the legislative authority of the Parliament of Canada would, in the opinion of the Board, be likely to object to the publication thereof, the Board shall not authorize such information to be published without notice to such company, or any such other company, and hearing any objection that such company or any such other company, may make to such publication. R.S., c. 170, s. 384; 1929, c. 54, ss. 5, 6, 7.

#### ACTIONS FOR DAMAGES.

##### *Breach of Duty under Act.*

Damages  
for breach  
of duty  
under Act.

**392.** Any company that, or any person who, being a director or officer thereof, or a receiver, trustee, lessee, agent, or otherwise acting for or employed by such company, does, causes or permits to be done, any matter, act or thing contrary to the provisions of this or the Special Act, or to the orders, regulations or directions of the Governor in Council, or of the Minister, or of the Board, made under this Act, or omits to do any matter, act or thing, thereby required to be done on the part of any such company, or person, is, in addition to being liable to any penalty elsewhere provided, liable to any person injured by any such act or omission for the full amount of damages sustained thereby, and such damages are not subject to any special limitation except as expressly provided for by this or any other Act. R.S., c. 170, s. 385.

##### *Cattle Getting on Railway.*

Damages  
where  
animals  
get on  
railway.

**393.** (1) When any horses, sheep, swine or other cattle, whether at large or not, get upon the lands of the company and by reason thereof damage is caused to or by such

4718

animal,

animal, the person suffering such damage is entitled to recover the amount of such damage against the company in any action in any court of competent jurisdiction unless the company establishes that such damage was caused by reason of

*Exceptions.*

- (a) any person for whose use any farm crossing is furnished, or his servant or agent, or the person claiming such damage or his servant or agent, wilfully or negligently failing to keep the gates at each side of the railway closed when not in use; *Gates not kept closed.*
- (b) any person other than an officer, agent, employee or contractor of the company wilfully opening and leaving open any gate, on either side of the railway provided for the use of any farm crossing, without some one being at or near such gate to prevent animals from passing through the gate on to the railway; *Gates wilfully left open.*
- (c) any person other than an officer, agent, employee or contractor of the company taking down any part of a railway fence; *Fence taken down.*
- (d) any person other than an officer, agent, employee or contractor of the company turning any such animal upon or within the enclosure of any railway, except for the purpose of and while crossing the railway in charge of some competent person using all reasonable care and precaution to avoid accidents; or *Animals turned on railway.*
- (e) any person other than an officer, agent, employee or contractor of the company, except as authorized by this Act, without the consent of the company, riding, leading or driving any such animal or wilfully suffering the same to enter upon any railway, and within the fences, guards and gates thereof. *Animals ridden, etc., on railway.*

(2) Where any such animal, by reason of being at large within half a mile of the intersection of a highway with any railway at rail level contrary to the provisions of section 281 is killed or injured by any train at such point of intersection, the owner of such animal does not have any right of action against any company in respect of the same being so killed or injured; but contravention of the said section does not in any other case, nor does the fact that the company is not guilty of any negligence or breach of duty, prevent any person from recovering damage from the company under this section. *Animals killed or injured at highway crossing.*

(3) Nothing in this section shall be construed as relieving any person from the penalties imposed by section 413. R.S., c. 170, s. 386. *Penalty not affected.*



*Fires from Locomotives.*

Liability  
for fire  
caused by  
locomotive.

**394.** (1) Whenever damage is caused to any property by a fire started by any railway locomotive, the company operating the railway on which the locomotive is being used, whether guilty of negligence or not, is liable for such damage and may be sued for the recovery of the amount of such damage in any court of competent jurisdiction.

If modern  
appliances  
have been  
used.

(2) If it is shown that the company has used modern and efficient appliances, and has not otherwise been guilty of any negligence, the total amount of compensation recoverable from the company under this section in respect of any one or more claims for damage from a fire or fires started by the same locomotive and upon the same occasion, shall not exceed five thousand dollars.

Insurance.

(3) If there is any insurance existing on the property destroyed or damaged, where the company has used modern and efficient appliances and has not otherwise been guilty of negligence, the total amount of damages sustained by any claimant in respect of the destruction or damage of such property shall, for the purposes of this section, be reduced by the amount received or recoverable by or for the benefit of such claimant in respect of such insurance.

No action.

(4) No action lies against the company by reason of anything in any such policy of insurance.

Limitation.

(5) In any action or proceeding under this section the limitation of two years hereinafter prescribed begins to run from the date of final judgment in any action brought by the assured to recover such insurance money, or in the case of settlement, from the date of the receipt of such money by the assured, as the case may be.

*Pro rata*  
apportion-  
ment.

(6) Where the amount recoverable from the company is limited to such five thousand dollars and such sum is not sufficient to pay all the claims in full, it shall be apportioned among the claimants *pro rata* according to the claims established.

Determina-  
tion of  
claims by  
judge.

(7) Where it is made to appear that the total amount of the claims may exceed the said sum, a judge of any superior court of competent jurisdiction may make such order as he deems fit for the proper determination and adjustment of all such claims and of the liability of the company, and if he deems proper, may stay or consolidate any action or actions, and may direct advertisement for such claims and filing and adjudication thereof in such manner and before such tribunal, officer or person as he deems fit, and may order that after such advertisement or notice as he directs all



claims not filed and established as directed shall thereafter be barred; and the costs of any such proceedings shall be paid as such judge directs. Costs.

(8) Except under or in pursuance of such an order, the company is not entitled to have any action under this section stayed or the amount recoverable therein lessened because of the limitation of its liability to five thousand dollars as aforesaid, nor does any payment made by the company to any claimant otherwise than under or in pursuance of such an order prejudice the right of any other claimant to receive his due proportion of such five thousand dollars. Restrictions.

(9) Nothing in subsections (7) and (8) prevents or prejudices any action or claim against the company for failure to use modern and efficient appliances or for other negligence. Exception.

(10) The company has an insurable interest in all property upon or along its route, for which it may be held liable to compensate the owners for loss or damage by fire caused by a railway locomotive, and may procure insurance thereon in its own behalf. R.S., c. 170, s. 387. Insurable interest in property.

### *Failure to Equip Trains Properly.*

**395.** Every company that fails to comply with any requirement of this Act

(a) with respect to providing and causing to be used on its trains modern and efficient apparatus, appliances or means, or any apparatus, appliance or means in this Act specified, for the providing of communication between the conductor and the engine driver, or for the checking of the speed of any train or the bringing of the same expeditiously to a standstill, or for the secure coupling and connecting of the cars and the engine composing the train; Failure to equip. trains properly.

(b) with respect to equipping its box freight cars, for the security of its employees, with outside ladders and hand-grips, or if the Board so requires, with any other improved side attachment required by the Board; or Box freight cars.

(c) with respect to adopting and using upon its rolling stock draw bars of a height determined by the Board; is, in addition to being liable to any penalty elsewhere provided, liable to pay to all such persons as are injured by reason of the non-compliance with such requirements, or to their representatives, such damages as they are legally entitled to, notwithstanding any agreement to the contrary Draw bars. Penalty.

with regard to any such person, unless such agreement is authorized by the law of the province in which it is made and by regulation of the Board. R.S., c. 170, s. 388.

*Infraction of Provision or Order respecting Tolls.*

Infraction  
of order  
respecting  
tolls.

**396.** (1) Every company is, in addition to any penalty in this Act provided in respect of any infraction by the company, or any officer, servant or agent of the company, of any provision of this Act, or of any order, direction, decision or regulation made or given by the Board under this Act, in respect of tolls, liable, at the suit of any person injured by reason of any such infraction, to three times the amount of the actual damage which such person may be proved to have sustained.

Triple  
damages.

No action  
without  
leave of  
Board.

(2) No action shall be commenced for the recovery of any such triple damages without the leave of the Board first being obtained. R.S., c. 170, s. 389.

*Injuries on Platform, Baggage or Freight Car.*

No claim  
for in-  
juries  
in certain  
cases.

**397.** No person injured while on the platform of a car, or on any baggage, or freight car, in violation of the printed regulations posted up at the time, has any claim in respect of the injury, if room inside of the passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time. R.S., c. 170, s. 390.

*Limitation and Defences.*

Limitation.

**398.** (1) All actions or suits for indemnity for any damages or injury sustained by reason of the construction or operation of the railway shall, and notwithstanding anything in any Special Act may, be commenced within two years next after the time when such supposed damage is sustained, or if there is continuation of damage, within two years next after the doing or committing of such damage ceases, and not afterwards.

Excep-  
tions—  
carriage of  
traffic,  
tolls.

(2) Nothing in subsection (1) applies to any action brought against the company upon any breach of contract, express or implied, for or relating to the carriage of any traffic, or to any action against the company for damages under the provisions of this Act respecting tolls.

Pleadings.

(3) Notwithstanding anything in any Special Act or elsewhere contained, the pleadings in any action or suit against the company shall be governed by the law or rules of procedure of the court in which such action or suit is brought, and the company is not, unless permitted by such law or rules, entitled to plead the general issue.

(4) No inspection under or by the authority of this Act, and nothing in this Act and nothing done, ordered or directed, or required or provided for, or omitted to be done, ordered or directed or required or provided for, under or by virtue of the provisions of this Act, shall, except in so far as a compliance with the Act or with such order or direction, or requirement or provision, constitutes a justification for what would otherwise be wrongful, relieve, or be construed to relieve, any company of or from, or in any wise diminish or affect, any liability or responsibility resting upon it by law, either towards Her Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, heir or personal representative, of any person, for anything done or omitted to be done by such company, or for any wrongful act, negligence or default, misfeasance, malfeasance, or non-feasance, of such company. R.S., c. 170, s. 391.

Company  
not  
relieved  
by inspection  
etc.

#### OFFENCES, PENALTIES AND OTHER LIABILITY.

##### *Disobeying Orders of Board.*

**399.** (1) Every company and every municipal or other corporation that neglects or refuses to obey any order of the Board made under the provisions of this Act, or any other Act of the Parliament of Canada, is for every such offence, liable to a penalty of not less than twenty dollars nor more than five thousand dollars.

Disobey-  
ing orders  
of Board.

(2) Wherever it is proved that any company has neglected or refused to obey an order of the Board made under the provisions of this Act, or any other Act of the Parliament of Canada, the president, the vice-president, each vice-president where there are more than one, and every director and managing director of such company is guilty of an offence for which he is liable to a penalty of not less than twenty dollars and not more than five thousand dollars, or imprisonment for any period not exceeding twelve months, or both, unless he proves that, according to his position and authority, he took all necessary and proper means in his power to obey and carry out, and to procure obedience to and carrying out of, such order and that he was not at fault for the neglect or refusal to obey the same.

Liability  
of officers of  
company.

(3) Wherever it is proved that any municipal or other corporation has neglected or refused to obey any order of the Board made under the provisions of this Act, or any other Act of the Parliament of Canada, the mayor, warden, reeve or other head of such corporation, and every member of the council or other ruling or executive body of such

Liability  
of officers  
of municipi-  
pality or  
corporation.



corporation, is guilty of an offence for which he is liable to a penalty of not less than twenty dollars and not more than five thousand dollars, or imprisonment for any period not exceeding twelve months, or both, unless he proves that, according to his position and authority, he took all necessary and proper means in his power to obey and carry out, and to procure obedience to and carrying out of, such order, and that he was not at fault for the neglect or refusal to obey the same.

Other  
liability  
continues.

(4) Nothing in or done under this section lessens or affects any other liability of such company, corporation or person, or prevents or prejudices the enforcement of such order in any other way.

Prosecu-  
tion.

(5) No prosecution shall be had under this section except by leave or direction of the Board. R.S., c. 170, s. 392.

### *Obstructing Inspecting Engineers.*

As to  
transmis-  
sion of  
telegraph  
messages.

Penalty.

**400.** (1) Every operator or officer employed in any telegraph office of the company, or under the control of the company, who neglects or refuses to obey, without unnecessary delay, all orders of any inspecting engineer for the transmission of messages is, for every such offence, liable on summary conviction to a penalty of forty dollars.

Obstruct-  
ing inspect-  
ing engineer  
on duty.

Penalty.

(2) Every person who wilfully obstructs any inspecting engineer in the execution of his duties is liable on summary conviction to a penalty not exceeding forty dollars, and, in default of payment thereof forthwith, or within such time as the convicting justice appoints, to imprisonment with or without hard labour for any term not exceeding three months. R.S., c. 170, s. 393.

### *Purchase of Railway Securities.*

Company  
not to  
purchase.

Penalty.

Separate  
offences.

**401.** (1) Every director of a railway company who knowingly permits the funds of any such company to be applied either directly or indirectly in the purchase of its own stock, or in the acquisition of any shares, bonds or other securities issued by any other railway company in Canada, or in the purchase or acquisition of any interest in any such stock, shares, bonds or other securities, contrary to the provisions of this Act or the Special Act, shall incur a penalty of one thousand dollars for each such violation.

(2) The acquisition of each share, bond or other security or interest as aforesaid shall be deemed a separate violation of this section.



(3) Such penalty is recoverable on information filed in the name of the Attorney General of Canada, and a moiety thereof shall belong to Her Majesty, and the other moiety thereof shall belong to the informer. R.S., c. 170, s. 394.

Recovery and application.

*Schemes of Arrangement with Creditors.*

**402.** If any railway company fails to keep at all times, at its principal or head office, printed copies of any scheme of arrangement between the company and its creditors, after such scheme has been confirmed and enrolled as provided by this Act, or to sell such copies to all persons desiring to buy them at a reasonable price, not exceeding ten cents for each copy, the company shall incur a penalty not exceeding one hundred dollars, and a further penalty not exceeding twenty dollars for every day during which such failure continues after the first penalty is incurred. R.S., c. 170, s. 395.

Failure of company to keep or sell copies.

Penalty.

*Filing and Registry.*

**403.** Every railway company that fails or neglects, within six months after the completion of the undertaking, or within six months after beginning to operate any completed part of the railway, as the case may be, or within such extended or renewed period as the Board at any time directs,

Company neglecting to file.

(a) to file with the Board a plan and profile of its completed railway, or of any such part thereof as is completed and in operation, and of the land taken or obtained for the use thereof; or

Plan and profile.

(b) to file in the registry offices for the respective districts and counties, in which the parts of such railway so completed, or completed and in operation are situate, plans of the parts thereof and of the land taken or obtained for the use thereof, located in such districts and counties respectively, prepared on such a scale and in such manner, and form, and signed or authenticated in such manner, as the Board may from time to time by general regulation, or in any individual case, sanction or require;

Plan of lands taken.

shall incur a penalty of two hundred dollars, and a like penalty for each and every month during which such failure or neglect continues. R.S., c. 170, s. 396.

Penalty.

Registrar  
of deeds  
neglecting  
his duty.

**404.** Every registrar of deeds with whom it is by this Act required that any plan, profile, book of reference, certified copy thereof, or other document relating to the location or construction of any railway shall be deposited, who refuses or neglects

Receiving  
and pre-  
serving  
documents.

(a) to receive and preserve in his office all such plans, profiles, books of reference, certified copies thereof, and other documents duly tendered to him for such deposit;

Endorse-  
ments.

(b) to endorse thereon the day, hour and minute when the same were so deposited;

Copies.

(c) to allow any person to make extracts therefrom and copies thereof as occasion requires, upon payment of the fees in that behalf by this Act prescribed; or

Certificates.

(d) to certify, at the request of any person, in the manner and with the particulars by this Act required, copies of any such plan, profile, book of reference or document, or such portions thereof as may be required, upon being paid therefor at the rate provided by this Act;

Penalty.

is liable on summary conviction to a penalty of ten dollars, and also to an action for damages at the suit of any person injured by any such refusal or neglect. R.S., c. 170, s. 397.

#### *Removing Industrial Spurs.*

Removing  
industrial  
spurs  
without  
leave.

**405.** Any company or person who, without consent or order of the Board, removes any spur or branch line constructed under or pursuant to this Act for the purpose of affording railway facilities to, or in connection with, any industry or business established or intended to be established, is liable on conviction to a penalty not exceeding one thousand dollars. R.S., c. 170, s. 398.

Penalty.

#### *Examining Mine Workings.*

Refusing  
to allow  
examina-  
tion of  
mine  
workings.

**406.** Any owner, lessee, or occupier of a mine lying under or near a railway or any of the works connected therewith, who, after the company owning or operating such railway has obtained the written permission of the Board and given twenty-four hours notice in writing in that behalf, refuses or neglects to allow any person appointed by such company for that purpose, to enter into and return from such mine or the works connected therewith and make use of any apparatus of such mine and all necessary means for discovering the distance from such railway or works connected therewith to the parts of such mine which are being worked, in order to ascertain whether such mine is being worked or has been worked so as to injure or be detrimental to such railway or works connected therewith,

or to the safety thereof or of the public, is for every such refusal or neglect liable on summary conviction to a penalty not exceeding one hundred dollars. R.S., c. 170, s. 399.

*Matters Incidental to Construction.*

**407.** Every railway company that fails or neglects to comply with any direction of the Governor in Council, given upon the report of the Board, requiring such company within such time as the Governor in Council directs, to construct fixed and permanent bridges, or swing, draw or movable bridges, or to substitute any of such bridges for bridges existing on the line of the company's railway, shall, for every day after the expiration of the period so fixed, during which the company fails or neglects to comply with such direction, forfeit and pay to Her Majesty the sum of two hundred dollars. R.S., c. 170, s. 400.

Failing to comply with directions as to construction of bridges. Penalty.

**408.** Whenever

- (a) any bridge, tunnel or other erection or structure over, through or under which any railway passes is not so constructed, or reconstructed or altered, within such time as the Board may order, and thereafter so maintained, as to afford at all times an open and clear headway of at least seven feet between the top of the highest freight car used on the railway, and the lowest beams, members or portions of that part of such bridge, tunnel, erection or structure, which is directly over the space liable to be traversed by such car in passing thereunder; or
- (b) except by leave of the Board, the space between the rail level and such beams, members, or portions of any such structure, constructed after the 1st day of February, 1904, is in any case less than twenty-two feet six inches;
- Structures not in conformity with this Act.

the company or owner so constructing shall incur a penalty not exceeding fifty dollars, for each day during which such company or owner wilfully refuses, neglects or omits to comply with the requirements of this Act, as to construction, reconstruction, alteration or maintenance, in this section mentioned; but nothing in this section applies to any bridge, tunnel, erection or structure exempted by the Board from such requirements. R.S., c. 170, s. 401.

Spaces not in conformity. Penalty.

**409.** Every company that erects, operates or maintains any bridge, approach, tunnel, viaduct, trestle, or any building, erection or structure, in violation of this Act, or of any order or regulation of the Board, shall for each offence incur a penalty of fifty dollars. R.S., c. 170, s. 402.

Structures in violation of this Act. Penalty.



Improper  
use of  
highways.

**410.** Every railway company that, except as authorized by Special Act of the Parliament of Canada, or amendment thereof, passed previously to the 12th day of March, 1903,

(a) carries its railway or causes or permits the same to be carried upon, along or across an existing highway without having first obtained leave therefor from the Board;

(b) obstructs any such highway by its works before turning the highway so as to leave an open and good passage for carriages; or

(c) on completion of the works fails or neglects to restore the highway to as good a condition, as nearly as possible, as it originally had;

Penalty.

shall incur a penalty of not less than forty dollars nor more than five thousand dollars for each such offence. R.S., c. 170, s. 403.

Failure  
to erect  
signboards  
at cross-  
ings.

**411.** Every railway company that fails or neglects to erect and maintain, at each crossing where a highway is crossed at rail level by the railway of the company, a signboard having the words *Railway Crossing* painted on each side thereof, in letters at least six inches in length, and, in the Province of Quebec, in both the English and French languages, shall incur a penalty not exceeding forty dollars. R.S., c. 170, s. 404.

Penalty.

### *Opening Railway for Traffic.*

Opening  
railway  
without  
leave  
of Board.

**412.** If any railway or portion thereof is opened for the carriage of traffic, other than for the purposes of the construction of the railway by the company, before leave therefor has been obtained from the Board as hereinbefore provided, the company or person to whom such railway belongs, shall forfeit to Her Majesty the sum of two hundred dollars for each day on which the railway is or continues open without such leave. R.S., c. 170, s. 405.

Penalty.

### *Safety and Care of Roadway, etc.*

**413.** (1) Every person who

Leaving  
gates open.

(a) wilfully leaves open any gate on either side of the railway, provided for the use of any farm crossing, without some person being at or near such gate to prevent animals passing through it on to the railway;

Taking  
down fences.

(b) not being an officer or employee of the company acting in the discharge of his duty, takes down any part of a railway fence;



(c) turns any horse, cattle or other animal upon or within the inclosure of any railway, except for the purpose of and while crossing the railway in charge of some competent person, using all reasonable care and precaution to avoid accidents; or Turning animals into railway inclosure.

(d) except as authorized by this Act, without the consent of the company, rides, leads or drives any horse, or other animal, or wilfully suffers any such horse or animal to enter upon the railway, and within the fences and guards thereof; Allowing animals to go upon railway.

is, on summary conviction, liable to a penalty of twenty dollars for each such offence. Penalty.

(2) Every such person is also liable to the company for any damage to the property of the company, or for which the company may be responsible, by reason of any such act or omission. Damages to the company.

(3) Every person guilty of any offence under this section is, in addition to the penalty and liability therein provided, liable to pay to any person injured by reason of the commission of such offence all damages thereby sustained. Damages to person injured.  
R.S., c. 170, s. 406.

**414.** (1) Every railway company that fails or neglects to cause the thistles and all noxious weeds growing on the right of way, and upon land of the company adjoining the railway, to be cut down, or to be rooted out and destroyed, each year, before such thistles or weeds have sufficiently matured to seed, or that fails or neglects to do anything that it is required by law to do for the purpose of cutting down, or rooting out and destroying such thistles and weeds before they have sufficiently matured to seed, shall incur a penalty of two dollars for every day during which such failure or neglect continues. Failure to have weeds removed from right of way. Penalty.

(2) The mayor, reeve or chief officer of the municipality, township, county or district in which any portion of the right of way or land of the company lies, upon which the company has failed to cut down, or root out and destroy, such thistles and weeds as by law required, or to do anything which the company is by law required to do for the purpose aforesaid, or any justice of the peace in such municipality, township, county or district, may enter upon the portion of the right of way and lands aforesaid, and, by himself and his assistants or workmen, cut down, or root out and destroy, such thistles or weeds, and for that purpose cause to be done all things which the company is by law required to do. Municipal officers may remove.

## Expenses.

(3) Such mayor, reeve, chief officer or justice of the peace may recover the expenses and charges so incurred, and the said penalty, with costs, in any court of competent jurisdiction.

## Payment.

(4) Such penalty shall be paid to the proper officer of the municipality. R.S., c. 170, s. 407.

Walking  
on track.

**415.** Every person, not connected with the railway or employed by the company, who trespasses upon the yard or track of the company, except where the same is laid across or along a highway, is liable on summary conviction to a penalty not exceeding ten dollars. R.S., c. 170, s. 408.

## Penalty.

Using  
highway  
crossings  
on foot.

**416.** Any person who uses any highway crossing at rail level for the purpose of passing on foot along such highway across the railway, except during the time when such highway crossing is used for the passage of carriages, carts, horses or cattle along the said highway, is liable on summary conviction to a penalty not exceeding ten dollars, if

## Penalty.

If there is  
a foot  
bridge.

(a) the company has erected and completed, pursuant to order of the Board, over its railway, at or near or in lieu of such highway crossing, a foot bridge or foot bridges for the purpose of enabling persons passing on foot along such highway to cross the railway by means of such bridge or bridges, and

Main-  
tained.

(b) such foot bridge is maintained or such foot bridges are maintained by the company in good and sufficient repair. R.S., c. 170, s. 409.

Non-com-  
pliance  
with order  
of Board.

**417.** (1) If any company refuses or neglects to comply with any order of the Board, made upon the report of the inspecting engineer, under the authority of this Act,

## Works.

(a) directing any repairs, renewals, reconstruction, alteration or new work, material or equipment to be made, done or furnished by the company upon, in addition to, or in substitution for any portion of the railway;

## Operation.

(b) directing that, until such repairs, renewals, reconstruction, alteration and work, materials or equipment are made, done and furnished to the satisfaction of the Board, no portion of the railway in respect of which such order is made shall be used, or used otherwise than subject to certain restrictions, conditions and terms by such order imposed; or

Rolling  
stock.

(c) condemning and forbidding further use of any rolling stock therein specified;

## Penalty.

the company shall for each such refusal or neglect forfeit to Her Majesty the sum of two thousand dollars.

(2) Any person wilfully and knowingly aiding or abetting any such disobedience or non-compliance is liable therefor, upon conviction, to a penalty of not less than twenty dollars, and not more than two hundred dollars.

*Aiding or abetting.*

(3) No prosecution for any penalty under this section shall be instituted without the authority of the Board first obtained. R.S., c. 170, s. 410.

*No prosecution without leave of Board.*

**418.** If any railway company refuses or neglects to comply with any notice in writing of any inspecting engineer, given under the authority of this Act, and duly served upon the company, forbidding the running of any train over the railway of the company, or any portion thereof, or requiring that trains be run only at such times, under such conditions and with such precautions as specified in such notice, or forbidding the running or using of any rolling stock specified in the notice, such company shall forfeit to Her Majesty the sum of two thousand dollars. R.S., c. 170, s. 411.

*Non-compliance with notice of engineer forbidding the running of trains.*

*Penalty.*

### *Notification of Accidents.*

**419.** (1) Every railway company that wilfully or negligently omits to give immediate notice as by this Act required, with full particulars, to the Board of the occurrence, upon the railway belonging to such company, of any accident attended with serious personal injury to any person using the railway, or to any employee of the company, or whereby any bridge, culvert, viaduct or tunnel on or of the railway has been broken, or so damaged as to be impassable or unfit for immediate use, shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the omission to give such notice continues.

*Omitting to give notice of accident.*

*Penalty.*

(2) Every conductor or other employee who makes a report to the company of the occurrence of any such accident and fails, wilfully or negligently, to notify the Board of the same by telegraph as soon as possible after such accident, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one hundred dollars. R.S., c. 170, s. 412.

*Conductors, etc., failing to notify Board by telegraph.*

*Penalty.*

### *Operation and Equipment.*

**420.** Every person who wilfully or negligently violates any by-law, rule or regulation of the company is liable, on summary conviction, for each offence, to a penalty not exceeding the amount therein prescribed, or if no amount is so prescribed, to a penalty not exceeding twenty dollars; but no such person shall be convicted of any such offence,

*Violation of by-laws and rules.*



Printed  
copy must  
be posted.

unless at the time of the commission thereof a printed copy of such by-law, rule or regulation was openly affixed to a conspicuous part of the station at which the offender entered the train, or at or near which the offence was committed. R.S., c. 170, s. 413.

Failure of  
company to  
properly  
equip its  
trains.

**421.** Every railway company required by this Act  
(a) to provide and cause to be used on its trains modern and efficient apparatus, appliances and means, or any apparatus, appliances and means in this Act specified, for the providing of communication between the conductor and the engine driver, or for the checking of the speed of any train or the bringing of the same expeditiously to a standstill, or for the secure coupling and connecting of the cars and the engine composing the train;

Box freight  
cars.

(b) to equip its box freight cars, for the security of its employees, with outside ladders and hand-grips, or if the Board so requires, with any other improved side attachment required by the Board; or

Draw bars.

(c) to adopt and use upon its rolling stock draw bars of a height determined by the Board;

Penalty.

which fails to comply with any requirement of this Act in that behalf shall forfeit to Her Majesty a sum not exceeding two hundred dollars for every day during which such default continues. R.S., c. 170, s. 414.

**422.** (1) Whenever

Black-  
board.

(a) any railway company upon whose railway there is a telegraph or telephone line in operation wilfully neglects, omits or refuses to have a blackboard put upon the outside of the station house over the platform of the station, in some conspicuous place, at each station of such company in which there is a telegraph or telephone office;

Notice of  
overdue  
trains.

(b) when any passenger train is overdue at any such station according to the time-table of such company, the station agent, or person in charge at such station, wilfully neglects, omits or refuses to write or cause to be written in white chalk on such blackboard a notice, in English and French in the Province of Quebec, and in English in the other provinces, stating to the best of his knowledge and belief the time when such overdue train may be expected to reach such station; or

Further  
notice.

(c) when there is any further change in the expected time of arrival, such station agent, or person in charge of the station, wilfully neglects, omits or refuses to write or cause to be written on the blackboard, in like



manner, a fresh notice stating to the best of his knowledge and belief the time when such overdue train may then be expected to reach such station;

such company is liable, upon summary conviction, to a penalty not exceeding five dollars for each such wilful neglect, omission or refusal. Penalty.

(2) Such station agent or person in charge at any such station is likewise liable to a penalty not exceeding five dollars for every wilful neglect, omission or refusal to write or cause to be written upon such blackboard any of such notices as hereinbefore required. R.S., c. 170, s. 415. Station master also liable.

**423.** Every officer or employee of any railway company who directs or knowingly permits any freight, merchandise or lumber car to be placed in any passenger train, in the rear of any passenger car in which any passenger is carried, is guilty of an indictable offence. R.S., c. 170, s. 416. Freight car in rear of passenger car.

**424.** (1) A company is liable to a penalty not exceeding four hundred dollars if, when the railway passes over any navigable water or canal by means of a draw or swing bridge that is subject to be opened for navigation, any train of the company upon such railway is not brought to a full stop before coming on or crossing over such bridge, or if such train thereafter proceeds before a proper signal has been given for that purpose. Penalty for not stopping at swing bridges.

(2) This section does not apply in the case of any bridge over which, by order of the Board under the authority of this Act, engines and trains are permitted to pass without stopping. R.S., c. 170, s. 417. Board may permit.

**425.** Every employee of the company who fails to comply with the rules of the company made for carrying into effect the provisions of this Act with regard to the stopping of trains before crossing any such draw or swing bridge, or for preventing such trains from proceeding over any such bridge before a proper signal has been given for that purpose, is liable to a penalty not exceeding four hundred dollars, or to six months' imprisonment, or to both. R.S., c. 170, s. 418. Employee of company failing to comply. Penalty.

**426.** (1) The company shall incur a penalty of eight dollars if, when any train of the company is approaching a highway crossing at rail level, Penalty. for failure.

(a) the engine whistle is not sounded at least eighty rods before reaching such crossing; and To sound whistle.

4733

(b)

R.S., 1952.

And ring  
bell.

(b) the bell is not rung continuously from the time of the sounding of the whistle until the engine has crossed the highway.

Damages.

(2) The company is also liable for all damage sustained by any person by reason of any failure or neglect so to sound the whistle or ring the bell.

Exception  
from  
penalty.

(3) Where a by-law of an urban municipality as defined in subsection (3) of section 311 prohibits such sounding of the whistle or ringing of the bell in respect of any such crossing or crossings within the limits of the municipality, the by-law if approved by order of the Board, to the extent of the prohibition, relieves the company from any penalty or liability under this section. R.S., c. 170, s. 419; 1947, c. 70, s. 7.

Employee  
neglecting  
to sound  
bell or  
whistle.

**427.** Every employee of the company whose duty it is to sound the whistle or ring the bell at any such highway crossing, who neglects to perform such duty as required by this Act, shall for each offence incur a penalty of eight dollars. R.S., c. 170, s. 420.

Penalty.

Penalty  
for—

**428.** (1) The company shall incur a penalty of one hundred dollars if

Crossing  
level  
railway  
crossing  
without  
signal.

(a) any train or engine of the company passes over any crossing where two main lines of railway, or the main tracks of any branch lines, cross each other at rail level, whether they are owned by different companies or by the same company, before a proper signal has been received by the conductor or engineer in charge of such train or engine, from a competent person or watchman in charge of such crossing, that the way is clear;

Train not  
stopping.

(b) any train of the company, before it passes over any such crossing, is not brought to a full stop, unless engines and trains are, by order of the Board under the authority of this Act, permitted to pass over such crossing without stopping;

Excessive  
speed in  
thickly  
peopled  
places  
where  
track not  
fenced.

(c) any train of the company passes in or through any thickly peopled portion of any city, town or village at a speed greater than ten miles an hour, unless the track is fenced or properly protected in the manner prescribed by this Act, or unless permission to pass at greater speed is given by some regulation or order of the Board;

Over  
highway  
crossings  
in thickly  
peopled  
places.

(d) any train of the company passes over any highway crossing at rail level in any thickly peopled portion of any city, town or village at a speed greater than ten

4734

miles

miles an hour, unless such crossing is constructed and thereafter maintained and protected in accordance with the orders, regulations and directions specially issued by the Railway Committee of the Privy Council or of the Board in force with respect to such crossing, or unless permission is given by some regulation or order of the Board;

(e) any train of the company passes over any highway crossing at rail level at a speed greater than twenty-five miles an hour, if at such crossing, subsequent to the 1st day of January, 1905, a person or vehicle using the crossing, or an animal being ridden or driven over the same, has been struck by a moving train, and bodily injury or death thereby caused to such person or to any other person using the crossing, unless the Board has directed that the speed limitation of twenty-five miles an hour imposed by subsection (2) of section 312 shall not be in effect at the crossing or unless the crossing is protected to the satisfaction of the Board;

Excessive speed over highway crossing where accident has happened.

(f) any train of the company passes at a speed greater than ten miles an hour over any highway crossing at rail level in respect of which crossing an order of the Board has been made to provide protection for the safety and convenience of the public and which order has not been complied with; or

Over highway crossing not protected as ordered.

(g) whenever in any city, town or village, any train of the company, not headed by an engine or its tender, is allowed to pass over or along a highway at rail level that is not adequately protected by gates or otherwise, the company does not station on that part of the train, which is then foremost, a person who shall warn persons standing on, or crossing or about to cross the track of such railway.

Moving in reverse without warning.

(2) Every company operating an electric street railway shall incur a penalty of one hundred dollars if

Electric railway companies.

(a) any electric car of such company passes over any crossing, where its line of railway crosses any line of railway subject to the provisions of this Act, at rail level, before a proper signal has been received by the conductor in charge of such electric car, from a competent person or watchman in charge of such crossing, that the way is clear;

Crossing at rail level without signal from watchman.

(b) there being no competent person or watchman in charge of such crossing, the conductor, before crossing the same, does not go forward and see that the track to be crossed is clear, before giving the signal to the motorman that the way is clear and to proceed; or

Or from conductor if no watchman.



Not  
stopping.

(c) any such electric car, before it passes over such crossing, is not brought to a full stop, unless electric cars are by order of the Board under the authority of this Act permitted to pass over such crossing without stopping. R.S., c. 170, s. 421; 1946, c. 30, s. 2; 1947, c. 70, s. 8.

Obstructing  
highway.

**429.** (1) Whenever at any highway crossing at rail level any engine, tender or car, or any part thereof, is wilfully allowed by the company, its officers, agents or employees to stand on any part of such highway for a longer period than five minutes at one time, or in shunting, to obstruct public traffic for a longer period than five minutes at one time, every officer, agent or employee of the company who has directly under or subject to his control, management or direction any such engine, tender or car, is liable on summary conviction to a penalty not exceeding fifty dollars, and the company is also liable to a like penalty; but, if the offence is in the opinion of the court excusable, the prosecution for the penalty may be dismissed and the costs are in the discretion of the court.

When  
observing  
rules of  
company  
causes ob-  
struction.

(2) No employee is liable to such penalty if he proves that the carrying out or observing of the rules of the company was the cause of such obstruction, and in such case the company and its superintendent or other officer in charge of the operation of the railway, or of the division thereof upon which such obstruction occurs, are each guilty of the offence mentioned in this section and liable to a penalty not exceeding two hundred dollars. R.S., c. 170, s. 422.

### *Intoxication of Employees.*

Intoxica-  
tion of  
railway  
employees.

**430.** Every conductor, locomotive engineer, train dispatcher, telegraph operator, station agent, switchman, signal man, bridge tender or any other person who is intoxicated, or under the influence of liquor, while on duty, in charge of or in any employment having to do with the movement of trains upon any railway, is guilty of an offence, and shall be punished by fine, not exceeding four hundred dollars, or imprisonment, not exceeding five years, or both, in the discretion of the court before which the conviction is had, and according as such court considers the offence proved to be more or less grave as causing injury to any person or property, or as exposing or likely to expose any person or property to injury, although no actual injury occurs. R.S., c. 170, s. 423.

Penalty.



**431.** Every person who sells, gives or barter<sup>Selling</sup>s any spirituous or intoxicating liquor to or with any servant<sup>liquor to</sup> or employee of any company, while on duty, is liable on<sup>railway</sup> summary conviction to a penalty not exceeding fifty dol-<sup>employee</sup>lars, or to imprisonment, with or without hard labour, for<sup>on duty.</sup> a period not exceeding one month, or to both. R.S., c. 170,  
s. 424. <sup>Penalty.</sup>

*Traffic, Tolls, and Tariffs.*

**432.** (1) If any company or any director or officer<sup>Contraven-</sup> thereof, or any receiver, trustee, lessee, agent or person,<sup>tions in</sup> acting for or employed by such company, either alone or<sup>respect</sup> with any other company or person, of tolls.

(a) wilfully does, or causes to be done, or willingly suffers to be done, any act, matter or thing, contrary to any order, direction, decision or regulation of the Board made or given under this Act, in respect of tolls;

(b) wilfully omits or fails to do any act, matter, or thing thereby required to be done;

(c) causes or willingly suffers or permits any act, matter or thing, so directed or required to be done, not to be done; or

(d) contravenes any such order, direction, decision or regulation, or any of the provisions of this Act, in respect of tolls;

such company, director, officer, receiver, trustee, lessee, agent or person is for each such offence liable to a penalty<sup>Penalty.</sup> of not more than one thousand dollars, and not less than one hundred dollars.

(2) No prosecution shall be had or instituted for any<sup>Prosecution</sup> such penalty without the leave of the Board first being<sup>by leave.</sup> obtained. R.S., c. 170, s. 425.

**433.** (1) Any company or any officer or agent thereof,<sup>Giving free</sup> or any person acting for or employed by such company,<sup>passes, etc.</sup> who, in contravention of the provisions of this Act, directly or indirectly, issues or gives any free ticket or free pass, whether for a specific journey or periodical or annual pass, or who arranges for or permits the transportation of passengers except on payment of the fares properly chargeable for such transportation under the tariffs filed under the provisions of this Act, and at the time in effect, is for each offence liable to a penalty not exceeding one thousand dollars and not less than one hundred dollars, and any person other than as provided by this Act who uses any such free ticket or free pass, whether for a specific journey or periodical or annual pass, is subject to a like penalty.

<sup>Using free</sup>  
<sup>passes.</sup>

Prosecution  
by leave.

(2) No prosecution shall be had or instituted for any such penalty without the leave of the Board first being obtained. R.S., c. 170, s. 426.

False  
billing,  
etc., by  
company.

**434.** (1) Any company or any officer or agent thereof, or any person acting for or employed by such company, who by means of false billing, false classification, false report of weight, or by any other device or means, knowingly, wilfully or willingly suffers or permits any person or persons to obtain transportation for goods at less than the required tolls then authorized and in force on the railway of the company, is for each offence liable to a penalty not exceeding one thousand dollars and not less than one hundred dollars.

Penalty.

Prosecution  
by leave.

(2) No prosecution shall be had or instituted for any such penalty without the leave of the Board first being obtained. R.S., c. 170, s. 427.

False billing,  
etc., by  
any person.

**435.** (1) Any person, or any officer or agent of any incorporated company, who delivers goods for transportation to such company, or for whom as consignor or consignee the company transports goods, who knowingly or wilfully by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the company, its agent or agents, obtains, or knowingly or wilfully attempts to obtain, transportation for such goods at less than the regular tolls then authorized and in force on the railway is, for each offence, liable to a penalty not exceeding one thousand dollars and not less than one hundred dollars.

Penalty.

Further  
toll.

(2) The Board may make regulations providing that any such persons or company is, in addition to the regular toll, liable to pay to the company a further toll not exceeding fifty per cent of the regular charge.

Opening  
of  
packages.

(3) The company may, and when ordered by the Board shall, open and examine any package, box, case or shipment, for the purpose of ascertaining whether this section has been violated.

Prosecution  
by leave.

(4) No prosecution shall be had or instituted for any such penalty without the leave of the Board first being obtained. R.S., c. 170, s. 428.

Unjust dis-  
crimination.

**436.** (1) Any person or company, or any officer or agent of any company

- (a) who offers, grants or gives, or solicits, accepts or receives any rebate, concession, or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic is, by any device whatsoever, transported at a less rate than that named in the tariffs then in force;
- (b) for whom the company or any of its officers or agents, is by any such means induced to transport traffic, and thereby to discriminate unjustly in favour of any such person, company, officer or agent as against any other person or company; or
- (c) who aids or abets the company in any unjust discrimination;

is for each offence liable to a penalty not exceeding one thousand dollars and not less than one hundred dollars. Penalty.

(2) No prosecution shall be had or instituted for any such penalty without the leave of the Board first being obtained. R.S., c. 170, s. 429. Prosecution by leave.

**437.** (1) If the company files with the Board any tariff, and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, any departure from the tolls in such tariff, when so in force, is, as against such company, its officers, agents or employees, an offence under this Act. Departure from tolls in tariff.  
Offence.

(2) No prosecution shall be had or instituted in respect of any such offence without the leave of the Board first being obtained. R.S., c. 170, s. 430. Prosecution by leave.

**438.** (1) All goods carried or being carried over any continuous route, from a point in Canada through a foreign country into Canada, operated by two or more companies whether Canadian or foreign, are, unless such companies have filed with the Board a joint tariff for such continuous route, subject upon admission into Canada, to Customs duties, as if such goods were of foreign production and coming into Canada for the first time. Neglect to file joint tariff.  
Goods subject to Customs duties.

(2) Such goods are subject to a Customs duty of thirty per cent of the value thereof, if they would not be subject to any Customs duty in case they were of foreign production, and coming into Canada for the first time. 30 per cent.

(3) If any such duty is paid by the consignor or consignee of such goods, the same shall be repaid on demand to the person so paying by the company or companies owning or operating so much of such continuous line or route as lies within Canada. R.S., c. 170, s. 431. Payable by company.



**439.** Every person who

Sending of  
explosives.

(a) sends by any railway any gunpowder, dynamite, nitroglycerine, or any other goods that are of a dangerous or explosive nature, without distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice thereof in writing to the station agent or employee of the company whose duty it is to receive such goods, and to whom the same are delivered; or

Taking  
them  
on train.  
Penalty.

(b) carries or takes upon any train any such goods for the purpose of carriage;  
is liable on conviction to a penalty not exceeding two thousand dollars or imprisonment for any period not exceeding two years, or both. R.S., c. 170, s. 432.

Carrying  
dangerous  
goods.

**440.** Every company that carries any goods of an explosive or dangerous nature except in conformity with the regulations, or an order, made by the Board in that behalf, shall for each such offence incur a penalty of five hundred dollars. R.S., c. 170, s. 433.

Refusing  
to check  
baggage.

**441.** If any railway company improperly refuses upon demand to affix a check to any parcel of baggage, having a handle, loop or suitable means for attaching a check thereupon, delivered by a passenger to the company for transport or to deliver a duplicate of such check to such passenger, the company is liable to such passenger for the sum of eight dollars recoverable in a civil action. R.S., c. 170, s. 434.

Penalty.

**442.** Every person who

Opening  
package  
with in-  
tent to  
steal con-  
tents.

(a) unlawfully bores, pierces, cuts, opens, enters or otherwise injures any car or any cask, can, bottle, box, case, sack, wrapper, package, container, or rolls of goods in or about any car, wagon, boat, vessel, warehouse, station house, wharf, quay or premises of or belonging to any company;

(b) unlawfully breaks the seal upon any car on any railway; or

Drinking  
or wasting  
liquids.  
Penalty.

(c) unlawfully drinks or wilfully spills or allows to run to waste any liquids;

is liable, on summary conviction, to a penalty not exceeding five hundred dollars, or to imprisonment, with or without hard labour, for a term not exceeding one year, or to both. R.S., c. 170, s. 435.

*Express Business.*

Carrying  
by express  
without  
filing  
tariff, etc.

**443.** Every company that carries or transports, and every officer or employee thereof who directs or knowingly permits to be carried or transported, any goods by express,

4740

(a)



- (a) unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner required by this Act;
  - (b) in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto; or
  - (c) in any case where such express toll in any tariff has been disallowed by the Board;
- is liable to a penalty not exceeding one hundred dollars Penalty. for each such offence. R.S., c. 170, s. 436.

*Statistics and Returns.*

- 444.** (1) Every railway, telegraph, telephone or express company that fails or neglects to prepare and furnish to the Board within such time and in such manner and form, and in accordance with such classifications, and with such particulars and verification, as by or under this Act are required or intended,
- (a) any return of its assets, liabilities, capitalization, revenue, working expenditure and traffic or of any other information required as indicated in the forms for the time being required by the Board; Failure to furnish returns to Minister.
  - (b) any monthly return of its revenues, working expenditure and traffic and of any other information that may be required, in accordance with the forms for the time being required by the Board; or Capital, traffic and working expenditure.
  - (c) any other information that may be from time to time required by the Board under this Act; Monthly traffic.
- shall incur a penalty not exceeding ten dollars for every day during which such default continues. Other information. Penalty.
- (2) Every person who knowing the same to be false in any particular, signs any such return, is guilty of an offence punishable on summary conviction. R.S., c. 170, s. 437; 1951 (2nd Sess.), c. 22, s. 17. Signing false return

**445.** Any railway, telegraph, telephone or express company that fails or neglects to deliver to the Dominion Statistician within the time provided in this Act or when required by the Board, and in the form ordered and directed by the Board, or specified in this Act, Returns to Statistician.

- (a) a true and particular return of all accidents and casualties, whether to persons, or to animals or other property, which have occurred on the property of the company, or in connection with the operation of the undertaking of the company setting forth the particulars and verified in manner as by this Act required; Accidents.

By-laws,  
rules and  
regulations.

(b) if required by the Board, a true copy of the existing by-laws of the company and of its rules and regulations for the management of the company and of its railway or such other undertaking or business as it is authorized to carry on, within fourteen days after having been so required by the Board; or

Additional  
returns of  
serious acci-  
dents.

(c) in the case of a railway company, any other or additional returns of serious accidents occurring in the course of the public traffic on the railway, if thereunto required with a view to public safety by the Board, within fourteen days after the same have been so required;

Penalty.

shall forfeit to Her Majesty the sum of one hundred dollars for every day during which the company so neglects to deliver such return. R.S., c. 170, s. 438.

Refusal to  
make  
returns  
required by  
Board.

**446.** (1) If the Board at any time, by notice served upon any railway, telegraph, telephone or express company or any officer, servant or agent of such company, requires such company or such officer, servant or agent to furnish to the Board, at or within any time stated in such notice, a written statement or statements showing in so far and with such detail and particulars as the Board requires,

Assets and  
liabilities.  
Stock.

(a) the assets and liabilities of such company;

(b) the amount of such company's stock issued and outstanding and the date at which any such stock was so issued;

Considera-  
tion  
therefor.

(c) the amount and nature of the consideration received by such company for such issue, and in case the whole of such consideration was not paid to such company in cash, the nature of the service rendered to or property received by such company for which any stock was issued;

Receipts  
and ex-  
penditures.

(d) the gross earnings or receipts or expenditure by such company during any period specified by the Board, and the purposes for which such expenditure was made;

Bonus and  
subsidies.

(e) the amount and nature of any bonus, gift or subsidy received by such company from any source whatsoever and the source from which and the time when, and the circumstances under which, the same was so received or given;

Bonds.

(f) the bonds issued at any time by such company and what portion of the same is outstanding, and what portion, if any, has been redeemed;

Consider-  
ation  
therefor.

(g) the amount and nature of the consideration received by such company for the issue of such bonds;

(h)

- (h) the character and extent of any liabilities outstanding chargeable upon the property or undertaking of such company, or any part thereof, and the consideration received by such company for such liabilities, and the circumstances under which the same were created; Liabilities.
- (i) the cost of construction of such company's railway or other works or of any part thereof; Cost of construction.
- (j) the amount and nature of the consideration paid or given by such company for any property acquired by it; Cost of property.
- (k) the particulars of any lease, contract or arrangement entered into between such company and any other company or person; and Leases and contracts.
- (l) generally, the extent, nature, value and particulars of the property, earnings and business of such company; or Generally.
- (m) any of the matters in this section mentioned; Any matter.
- and if such company, officer, servant or agent wilfully or negligently refuses to make such return when and as thereunto required by the Board, or fails to make any such return to the utmost of its or his knowledge, or means of knowledge, such company and every such officer, servant or agent, so in default, is severally liable on conviction to a penalty not exceeding one thousand dollars. If wilful or negligent. Penalty.

(2) Each such officer, servant or agent so convicted is, in addition to such penalty, liable to imprisonment in the common gaol of the county in which such conviction is made, for any period not exceeding twelve months. R.S., c. 170, s. 439. Imprisonment for officer or servant.

**447.** (1) If any company or any officer, servant or agent of such company wilfully or negligently makes any such return to the Board falsely, or makes any false statement in any such return, such company and every such officer, servant or agent is severally liable on conviction to a penalty not exceeding one thousand dollars. Making false returns. Penalty.

(2) Such officer, servant or agent is also, on such conviction, liable to imprisonment, for any period not exceeding twelve months, in the common gaol of the county where such conviction is had. R.S., c. 170, s. 440. Imprisonment.

**448.** If any officer or servant of the Board, or any person having access to or knowledge of any return made to the Board, or of any evidence taken by the Board in connection therewith, without the authority of the Board first obtained, publishes or makes known any information, having obtained the same, or knowing the same to have been Publishing information without leave.



Penalty. derived from such return or evidence, he is liable, on conviction, to a penalty not exceeding five hundred dollars for each offence, and to imprisonment not exceeding six months, in the common gaol of the county where such conviction is had. R.S., c. 170, s. 441.

*Railway Constables Failing in Duty.*

Failure of constable in duty.

**449.** (1) Every constable appointed under the authority of this Act who is guilty of any neglect or breach of duty in his office of constable is liable, on summary conviction, to a penalty not exceeding eighty dollars, or to imprisonment with or without hard labour for a term not exceeding two months.

Deduction from salary of constable.

(2) Such penalty may, if the constable is in receipt of a salary from the company, be deducted from any such salary due to such offending constable.

Venue.

(3) Any offence under this section may be prosecuted and adjudged within any county, city, district, or other local jurisdiction of the province wherein the offence was committed. R.S., c. 170, s. 442.

*Various Offences.*

**450.** Every person who

Destroying or injuring structures.

(a) wilfully breaks down, injures, weakens or destroys any gate, fence, erection, building or structure of a company;

Removing or defacing notices.

(b) removes, obliterates, defaces or destroys any printed or written notice, direction, order, by-law or regulation of a company, or any section of or extract from this Act or any other Act of Parliament, that a company or any of its officers or agents have caused to be posted, attached or affixed to or upon any fence, post, gate, building or erection of the company, or any car upon any railway;

Fraudulently entering train.

(c) enters upon any railway train, with intent fraudulently to be carried upon the said railway without paying fare thereon;

Obstructing officer of company.

(d) wilfully obstructs or impedes any officer or agent of any company in the execution of his duty upon any train, or railway, or upon any of the premises of the company; or

Trespass on property of company

(e) not being an employee of the company, wilfully trespasses by entering upon any of the stations, cars or buildings of the company in order to occupy the same for his own purposes;



is liable on summary conviction to a penalty not exceeding fifty dollars, or in default of payment to imprisonment with or without hard labour for a term not exceeding two months. R.S., c. 170, s. 443. Penalty.

*Penalties Not Otherwise Provided.*

**451.** Any company that, or any person who, being a director or officer thereof, or being a receiver, trustee, lessee, agent, or otherwise acting for or employed by such company, or being a contractor or other person having to do with the railway or other works of the company, does, causes or permits to be done, any matter, act or thing contrary to the provisions of this or the Special Act, or to the orders, regulations, or directions of the Governor in Council, or of the Minister, or of the Board, made under this Act, or omits to do any matter, act or thing, thereby required to be done on the part of any such company or person, is, if no other penalty is provided in this or the Special Act for any such act or omission, liable for each such offence to a penalty of not less than twenty dollars, and not more than five thousand dollars, in the discretion of the court before which the same is recoverable. R.S., c. 170, s. 444. Company or officer doing or omitting to do anything against this Act.   
 Penalty.

*Continuing Offences.*

**452.** When the violation of or failure to comply with any provision of this Act, or with any regulation, order or direction of the Governor in Council, the Minister, the Board or any inspecting engineer, is made, by this Act or any regulation thereunder, an offence subject to penalty, each day's continuance of such violation, or failure to comply, constitutes a new and distinct offence. R.S., c. 170, s. 445. Each day's violation of this Act a distinct offence.

*Company Liable for Acts of its Officers and Agents.*

**453.** (1) For the purpose of enforcing any penalty under any of the provisions of this Act, or enforcing any regulation, order, or direction of the Governor in Council, the Minister, the Board, or any inspecting engineer, made under this Act, the act, omission, or failure of any officer, agent, or other person acting for, or employed by the company, shall, if within the scope of his employment, in every case be also deemed to be the act, omission or failure of such company. Company liable for act or omission of officer, etc.

(2) Anything done or omitted to be done by the company which if done or omitted to be done by any director, or officer thereof, or any receiver, trustee, lessee, agent or person Company liable to same penalty as individual offender.

son acting for or employed by the company, would constitute an offence under this Act, shall also be held to be an offence committed by such company, and upon conviction of any such offence, the company is subject to the like penalties as are prescribed by this Act with reference to such persons. R.S., c. 170, s. 446.

*Penalties Constitute a First Charge.*

Penalties a first charge on railway.

**454.** If any company has been convicted of any penalty under this Act, such penalty is the first lien or charge upon the railway, property, assets, rent and revenues of the company. R.S., c. 170, s. 447.

*Procedure.*

If penalty \$100 or less.

**455.** (1) If any penalty, prescribed for any offence under this Act, or under any order, rule or regulation of the Board, is one hundred dollars or less, with or without imprisonment, the penalty may, subject to the provisions of this Act, be imposed and recovered on summary conviction before a justice of the peace.

If more than \$100 and less than \$500.

(2) If the penalty prescribed is more than one hundred dollars and less than five hundred dollars, the penalty may, subject as aforesaid, be imposed and recovered on summary conviction before two or more justices, or before a police magistrate, a stipendiary magistrate, or any person with the power or authority of two or more justices of the peace.

Board may require Attorney General to proceed.

(3) Whenever the Board has reasonable ground for belief that any company, or any person or corporation is violating or has violated any of the provisions of this Act, or any order, rule or regulation of the Board, in respect of which violation a penalty may be imposed under this Act, the Board may request the Attorney General of Canada to institute and prosecute proceedings, on behalf of Her Majesty, against such company or person or corporation for the imposition and recovery of the penalty provided under this Act for such violation, or the Board may cause an information to be filed in the name of the Attorney General of Canada for the imposition and recovery of such penalty.

Leave required when penalty exceeds \$100.

(4) No prosecution shall be had against the company for any penalty under this Act, in which the company might be held liable for a penalty exceeding one hundred dollars, without the leave of the Board being first obtained. R.S., c. 170, s. 448.

RAILWAY CONSTABLES.

*Appointment.*

**456.** (1) A superior or county court judge, two justices of the peace, or a stipendiary or police magistrate, in any part of Canada, a clerk of the peace, clerk of the Crown or judge of the sessions of the peace in the Province of Quebec, within whose jurisdiction the railway runs, may, on the application of the company or any clerk or agent of the company, appoint any persons who are British subjects to act as constables on and along such railway.

Who may make appointments.

Qualifications.

(2) Every person so appointed shall take an oath or make a solemn declaration, which may be administered by any judge or other official authorized to make the appointment or to administer oaths, in the form or to the effect following, that is to say:

Oath to be taken.

I, A.B., having been appointed a constable to act upon and along (*here name the railway*), under the provisions of the *Railway Act*, do swear that I am a British subject; that I will well and truly serve our Sovereign Lady the Queen in the said office of constable, without favour or affection, malice or ill-will; that I will, to the best of my power, cause the peace to be kept, and prevent all offences against the peace; and that, while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge the duties thereof faithfully according to the law. So help me God.

Form of oath.

(3) Such appointment shall be made in writing signed by the official making the appointment, and the fact that the person appointed thereby has taken such oath or declaration shall be endorsed on such written appointment by the person administering such oath or declaration. R.S., c. 170, s. 449.

Appointment in writing.

*Territorial Limits and Powers.*

**457.** (1) Every constable so appointed, who has taken such oath or made such declaration, may act as a constable for the preservation of the peace, and for the security of persons and property against unlawful acts

Territorial limits of constable.

(a) on such railway, and on any of the works belonging thereto;

(b) on and about any trains, roads, wharfs, quays, landing places, warehouses, lands and premises belonging to such company, whether the same are in the county, city, town, parish, district or other local jurisdiction within which he was appointed or in any other place through which such railway passes, or in which the

4747

same

R.S., 1952.



same terminates, or through or to which any railway passes which is worked or leased by such company; and

(c) in all places not more than a quarter of a mile distant from such railway.

Powers of constable.

(2) Every such constable has all such powers, protection and privilege for the apprehending of offenders, as well by night as by day, and for doing all things for the prevention, discovery and prosecution of offences, and for keeping the peace, as any constable duly appointed has within his constablewick. R.S., c. 170, s. 450.

Justices.

**458.** (1) Any such constable may take such persons as are charged with any offence against the provisions of this Act, or any of the Acts or by-laws affecting the railway, punishable by summary conviction, before any justice or justices appointed for any county, city, town, parish, district or other local jurisdiction within which such railway passes.

(2) Every such justice may deal with all such cases, as though the offence had been committed and the persons taken within the limits of his jurisdiction. R.S., c. 170, s. 451.

#### *Dismissal.*

Dismissal of constables by judge or magistrate.

**459.** (1) A superior or county court judge or a stipendiary or police magistrate, in any part of Canada, or a judge of the sessions of the peace in the Province of Quebec, may dismiss any such constable who is acting within his jurisdiction.

By company or agent.

(2) The company, or any clerk or agent of the company, may also dismiss any such constable who is acting on such railway.

Powers to cease on dismissal.

(3) Upon every such dismissal, all powers, protection and privileges, which belonged to any such person by reason of such appointment, wholly cease.

Reappointment.

(4) No person so dismissed shall be again appointed or act as constable for such railway, without the consent of the authority by whom he was dismissed. R.S., c. 170, s. 452.

#### *Records and Evidence Respecting Appointment and Dismissal.*

Company to record appointments and dismissals with clerk of peace.

**460.** The company shall within one week after the date of the appointment or dismissal, as the case may be, of any such constable appointed at the instance of the company, cause to be recorded in the office of the clerk of the peace for every county, parish, district, or other local jurisdiction in which any such constable is so appointed,



- (a) such appointment or a certified copy thereof;
- (b) the name and designation of any such constable;
- (c) the date of his appointment;
- (d) the name of the authority making such appointment; and
- (e) in the case of dismissal,
  - (i) the fact of the dismissal of any such constable;
  - (ii) the date of any such dismissal; and
  - (iii) the name of the authority making such dismissal. R.S., c. 170, s. 453.

**461.** Such clerk of the peace shall keep a record of all such facts in a book, which shall be open to public inspection, and is entitled to a fee of fifty cents for each entry of appointment or dismissal, and twenty-five cents for each search or inspection, including the taking of extracts. R.S., c. 170, s. 454.

Book to be kept by clerk of peace.

**462.** The records relating to appointments and dismissals of railway constables, required by this Act to be kept by the respective clerks of the peace for the counties, parishes, districts or other local jurisdictions in which such constables are appointed, are, without further proof than the mere production of such records, *prima facie* evidence of the due appointments of such constables, of their jurisdiction to act as such, and of the other facts by this Act required so to be recorded. R.S., c. 170, s. 455.

Records as to railway constables to be evidence.

#### MISCELLANEOUS

##### *Sunday Observance.*

**463.** (1) Notwithstanding anything in this Act, or in any other Act, every railway, situate wholly within one province of Canada and declared by the Parliament of Canada to be either wholly or in part a work for the general advantage of Canada, and every person employed thereon, in respect of such employment, and every person, company, corporation or municipality owning, controlling or operating the same wholly or partly, in respect of such ownership, control or operation, shall be subject to any Act of the legislature of the province in which any such railway is situate which was in force on the 10th day of August, 1904, in so far as such Act prohibits or regulates work, business or labour upon the first day of the week, commonly called Sunday.

Railway to be subject to provincial legislation in force in 1904.

(2) Every such Act, in so far as it purports to prohibit, within the legislative authority of the province, work, business or labour upon the said first day of the week, is hereby

Such legislation confirmed.

ratified and confirmed and made as valid and effectual, for the purposes of this section, as if it had been duly enacted by the Parliament of Canada.

Subsequent legislation may be adopted by proclamation.

(3) The Governor in Council may, by proclamation, confirm, for the purposes of this section, any Act of the legislature of any province passed after the 10th day of August, 1904, in so far as such Act purports to prohibit or regulate, within the legislative authority of the province, work, business or labour upon the said first day of the week; and such Act is, to the extent aforesaid, by force of such proclamation, ratified and confirmed and made as valid and effectual, for the purposes of this section, as if it had been enacted by the Parliament of Canada.

Effect of proclamation.

(4) Notwithstanding anything in this Act, or in any other Act, every railway, wholly situate within the province, and which has been declared by the Parliament of Canada to be in whole or in part a work for the general advantage of Canada, and every person employed thereon, in respect of such employment, and every person, company, corporation or municipality, owning, controlling, or operating the same wholly or partly, in respect of such ownership, control or operation, is, from and after such proclamation, subject to such Act in so far as it has been so confirmed.

Exceptions.

(5) Nothing in this section applies to any railway or part of a railway

- (a) that forms part of a continuous route or system operated between two or more provinces, or between any province and a foreign country, so as to interfere with or affect through traffic thereon;
  - (b) between any of the ports on the Great Lakes and such continuous route or system, so as to interfere with or affect through traffic thereon; or
  - (c) that the Governor in Council by proclamation declares to be exempt from the provisions of this section.
- R.S., c. 170, s. 456.

#### *Ascertaining Grand Trunk Pacific Railway Earnings.*

Ascertainment of true net earnings of G.T.P.R.

- 464.** (1) In order to ascertain the true net earnings of
- (a) the Eastern Division of the Grand Trunk Pacific Railway, for the purposes of the scheduled agreements referred to in the Act passed in the year 1904, chapter 24, intituled *An Act to amend the National Transcontinental Railway Act*; and
  - (b) the Grand Trunk Pacific Railway Company, upon its system of railways, at all times while the principal

or interest of any bonds made by the said company and guaranteed by the Government are unpaid by the said company;

the Board shall, upon the request of the Minister, inquire into, hear and determine any question as to the justness and reasonableness of the apportionment of any through rate or rates between the Grand Trunk Pacific Railway Company and any other transportation company, whether such company is or is not a railway company, or if a railway company, whether it is or not as such subject to the legislative jurisdiction of the Parliament of Canada.

Inquiry by Board.

(2) In any such determination the Board shall have due regard to the interests of the Government of Canada as owner of the said Eastern Division, and of the Intercolonial Railway, or as guarantor of any such principal or interest, and to the provisions of the *National Transcontinental Railway Act*, and of the Acts in amendment thereof, and of the said scheduled agreements.

Government interests.

(3) Although, in any such case, the Grand Trunk Pacific Railway Company has agreed to any apportionment, the net earnings shall be ascertained upon the basis of the receipt by the Grand Trunk Pacific Railway Company of such share of such through rate or rates as, in the opinion of the Board, the said company should have received under a just and reasonable apportionment; and such agreement is material evidence only and not conclusive.

Apportionment.

Net earnings.

(4) Either party to any such question may appeal from any such determination to the Supreme Court of Canada. R.S., c. 170, s. 457.

Appeal.

*Regulations and Orders of the Railway Committee of the Privy Council.*

**465.** (1) All regulations and orders made by the Railway Committee of the Privy Council, under the provisions of the *Railway Act, 1888*, in force on the 1st day of February, 1904, continue in force until repealed, rescinded, changed or varied under the provisions of this Act.

Regulations and orders continued.

(2) The Board has the like powers to repeal, rescind, change or vary such regulations and orders, as in the case of regulations or of orders that the Board may make under this Act. R.S., c. 170, s. 458.

Board may repeal.

**466.** (1) Notwithstanding the repeal of the *Railway Act, 1888*, the orders of the Railway Committee of the Privy Council in force on the 1st day of February, 1904, may be made rules or orders of the Exchequer Court, or of

Existing orders of Railway Committee.



any superior court of any province in Canada, and may be enforced in all respects, as nearly as may be, in the same manner as provided by this Act, in the case of similar orders by the Board.

Penalties  
for dis-  
obeying.

(2) All penalties, forfeitures and liabilities attaching, under this Act, to the violation of any regulation or disobedience to any order of the Board, apply and attach to any violation of or disobedience to any regulation or order of the Railway Committee of the Privy Council occurring after the 1st day of February, 1904, in all respects, as nearly as may be, as if such regulation or order of the Railway Committee of the Privy Council were a regulation or order of the Board. R.S., c. 170, s. 459.

Powers of  
Governor  
in Council  
continued.

**467.** (1) The Governor in Council continues to have authority and jurisdiction to sanction, confirm, rescind or vary, or to take any other action upon any report, order or decision of the Railway Committee of the Privy Council made before the 1st day of February, 1904, under the *Railway Act, 1888*, in as full and ample a manner as if the said Act had not been repealed and as if this Act had not been passed.

Orders and  
decisions  
confirmed.

(2) Any order or decision so sanctioned or confirmed has the same validity, force and effect as if the said order or decision had been so sanctioned or confirmed prior to the 1st day of February, 1904. R.S., c. 170, s. 460.

Payments to  
railway  
companies  
for cost of  
maintenance.

**468.** (1) Subject to the provisions of this section, the Minister of Finance may, when authorized by the Governor in Council, pay out of the Consolidated Revenue Fund

(a) to the Canadian Pacific Railway Company an amount equal to the annual cost of maintaining the trackage between Sudbury and Fort William on its transcontinental line of railway, and

(b) to the Canadian National Railway Company an amount equal to the annual cost of maintaining trackage corresponding in extent to the trackage mentioned in paragraph (a) between Capreol and Fort William and between Cochrane and Armstrong on the transcontinental lines of Canadian National Railways.

Cost deter-  
mined by  
Board of  
Transport  
Commis-  
sioners.

(2) The Board of Transport Commissioners for Canada shall determine the annual cost of maintaining the trackage for which payment may be made under this section and shall fix the extent of such trackage in respect of each company.



(3) The amounts paid under subsection (1) shall not in any year exceed seven million dollars in the aggregate. Maximum amount.

(4) When the cost of maintenance of the trackage on the lines of railway specified in subsection (1) exceeds in any year the sum of seven million dollars, the payments authorized by subsection (1) shall be apportioned between the companies according to the amounts expended by each company on the maintenance of its trackage. Apportionment.

(5) The amounts paid under subsection (1) shall be applied to a reduction in the relative level of rates applying on freight traffic moving in both directions between points in eastern Canada and points in western Canada over the trackage to which the payment relates, in such manner as the Board may allow or direct. 1951 (2nd Sess.), c. 22, s. 18. Board to direct how amounts to be applied.

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EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
 QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
 OTTAWA, 1952





## CHAPTER 271.

An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft.

### SHORT TITLE.

1. This Act may be cited as the *Transport Act*. 1938, Short title.  
c. 53, s. 1.

### INTERPRETATION.

2. (1) In this Act, Definitions.

(a) "agreed charge" means a charge agreed upon between a carrier and a shipper as in this Act provided and includes the conditions attached thereto; "Agreed charge."

(b) "Board" means the Board of Transport Commissioners for Canada; "Board."

(c) "carrier" means any person engaged in the transport of goods or passengers for hire or reward to whom this Act applies, and includes any company that is subject to the *Railway Act*; "Carrier."

(d) "goods in bulk" means the following goods laden or freighted in ships, and except as herein otherwise provided, not bundled or enclosed in bags, bales, boxes, cases, casks, crates or any other container: "Goods in bulk."

(i) grain and grain products, including flour and mill feeds in bulk or in sacks,

(ii) ores and minerals (crude, screened, sized, refined or concentrated, but not otherwise processed), including ore concentrates in sacks, sand, stone and gravel, coal and coke, liquids,

(iii) pulpwood, woodpulp, poles and logs, including pulpwood and woodpulp in bales, and

(iv) waste paper loaded as full ship's cargo, iron and steel scrap and pig iron;

"Great  
Lakes."

(e) "Great Lakes" means Lakes Ontario, Erie, Huron, (including Georgian Bay), and Superior, and their connecting waters, and includes the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans;

"Harbour  
toll."

(f) "harbour toll" means every rate, toll and charge established or proposed to be established by any Act of Parliament or by, or with the approval of, the Governor in Council in respect of ships entering, using or leaving any harbour in Canada, or the passengers thereof, or goods loaded, unloaded, shipped, transhipped, moved in transit or stored in any harbour in Canada, or on or in any wharf, dock, pier, warehouse or other facility within the limits of any such harbour or situate on lands appurtenant thereto;

"Licensee."

(g) "licensee" means a person licensed under this Act to engage in transport by water;

"Mackenzie  
River."

(h) "Mackenzie River" means all rivers, streams, lakes and other waters within the watershed of the Mackenzie River;

"Maritime  
Provinces."

(i) "Maritime Provinces" means the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland;

"Minister."

(j) "Minister" means the Minister of Transport;

"Ship."

(k) "ship" means every description of vessel, including a lighter, barge, scow or other like vessel, however propelled, exceeding ten tons gross tonnage, used in navigation on the Mackenzie River, and exceeding five hundred tons gross tonnage used in navigation on other waters in Canada; and when used in Part V, includes any vessel, boat, dredge, floating elevator or any other floating craft, and any raft, crib, dram or bag boom of logs, timber or lumber of any kind, and logs, timber or lumber in boom or being towed;

"Shipper."

(l) "shipper" means a person sending or receiving or desiring to send or receive goods by means of any carrier to whom this Act applies;

"Toll" or  
"charge."

(m) "toll" or "charge" means any toll, rate, charge or allowance charged or made in connection with the transport of passengers, or the shipment, transport, care, handling or delivery of goods, or for any services incidental to the business of a carrier; and includes also any toll, rate, charge or allowance as charged or made in connection with any instrumentality or facility of shipment or transport irrespective of ownership, or of any contract express or implied with respect to the use thereof, and includes also any toll, rate, charge or



allowance so charged or made for furnishing passengers with sleeping accommodation, or for collecting, receiving, loading, unloading, stopping over, elevating, ventilating, refrigerating, icing, heating, switching, ferrying, carting, storing, caring for, handling or delivering goods transported or in transit or to be transported; and includes also any toll, rate, charge or allowance so charged or made for the warehousing of goods, wharfage or demurrage, or the like; and includes charges made in connection with any one or more of the above mentioned subjects, separately or conjointly:

- (n) "transport" means the transport of goods or passengers whether by water or by rail, for hire or reward, to which the provisions of this Act apply; "Transport."
- (o) "transport by rail" means the transport of goods or passengers by a company to which the *Railway Act* applies; and "Transport by rail."
- (p) "transport by water" means the transport of goods or passengers for hire or reward by means of ships required to be licensed under this Act. "Transport by water."

(2) Unless it is otherwise provided expressions contained in this Act have the same meaning as in the *Railway Act*. Application of *Railway Act*.  
 1938, c. 53, s. 2; 1944-45, c. 25, s. 2; 1945, c. 32, ss. 1, 2; 1949, c. 6, s. 36.

## PART I.

### THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA.

3. It is the duty of the Board to perform the functions vested in the Board by this Act and by the *Railway Act* with the object of co-ordinating and harmonizing the operations of all carriers engaged in transport by railways and ships and the Board shall give to this Act and to the *Railway Act* such fair interpretation as will best attain the object aforesaid. 1944-45, c. 25, s. 4. Duties of the Board.

4. The provisions of the *Railway Act* relating to sittings of the Board and the disposal of business, witnesses and evidence, practice and procedure, orders and decisions of the Board and review thereof and appeal therefrom, are applicable in the case of every inquiry, complaint, application or other proceeding under this Act, and the Board shall exercise and enjoy the same jurisdiction and authority in matters under this Act as are vested in the Board by the *Railway Act*. 1938, c. 53, s. 4. *Railway Act* procedure to apply.

Application  
for licence.  
Public  
convenience  
and  
necessity.

5. Before any application for a licence is granted for the transport of goods or passengers or both goods and passengers under the provisions of this Act, the Board shall determine whether public convenience and necessity require such transport, and in so determining the Board may take into consideration, *inter alia*,

Objection  
to the  
application.

(a) any objection to the application that may be made by any person or persons who are already providing transport facilities, whether by rail or water, on the routes or between the places that the applicant intends to serve, on the ground that suitable facilities are or, if the licence were issued, would be in excess of requirements, or on the ground that any of the conditions of any other transport licence held by the applicant have not been complied with;

(b) whether or not the issue of such licence would tend to develop the complementary rather than the competitive functions of the different forms of transport, if any, involved in such objections;

(c) the general effect on other transport services and any public interest which may be affected by the issue of such licence; and

(d) the quality and permanence of the service to be offered by the applicant and his financial responsibility, including adequate provision for the protection of passengers, shippers and the general public by means of insurance. 1938, c. 53, s. 5; 1944-45, c. 25, s. 5.

Term of  
licence.

6. (1) Every licence issued under this Act shall, subject to the provisions of this Act, be for one year or for such other period as the Board with the approval of the Governor in Council may determine, and a fee is payable therefor according to a tariff of fees to be fixed by the Board with the approval of the Governor in Council.

Fees.

Fees payable  
to Receiver  
General.

(2) Fees for licences shall be paid to the Receiver General of Canada for the use of Her Majesty. 1938, c. 53, s. 6.

Fines  
payable to  
Receiver  
General.

7. Every fine imposed under this Act or under any regulation shall be paid over to the Receiver General of Canada for the use of Her Majesty. 1938, c. 53, s. 7.

Liability of  
officers and  
directors of  
corporation.

8. If any corporation is guilty of a breach of any provision of this Act for which a fine is provided to be imposed on such corporation, every officer or director of such corporation who has been party or privy to such breach also is liable on summary conviction to a fine not exceeding one thousand dollars. 1938, c. 53, s. 8.

**9.** No proceeding for any penalty for any breach of the provisions of this Act or of any regulation made or licence granted thereunder shall be commenced except within twelve months from the date of the breach complained of. 1938, c. 53, s. 9.

Limitation of proceedings for violations.

PART II.

TRANSPORT BY WATER.

**10.** (1) The Board may, subject to the provisions of this Part, license ships to transport passengers or goods or both passengers and goods from a port or place in Canada to another port or place in Canada.

Board licence to ships.

(2) The licence shall be issued in the name of the owner, lessee or other person entitled to engage in transport by water by means of such ship.

Licence in name of owner.

(3) The licence may apply to one or more ships.

To one or more ships.

(4) The Board may in the licence state the ports between which the ship or ships named therein may carry goods or passengers and the schedule of services that shall be maintained, but the licensee may be authorized to substitute another ship of approximately the same tonnage for a ship named in the licence.

Licence may name ports and schedules.

(5) The Board shall issue a licence in respect of a ship built, building or about to be built, upon being satisfied that the proposed service is and will be required by the present and future public convenience and necessity, and unless the Board is so satisfied no licence shall be issued.

Board shall issue licence if satisfied service is required.

(6) No licence shall be issued in the case of a ship other than a British ship, hereafter imported into Canada, that was constructed more than ten years before such importation. 1938, c. 53, s. 10.

Ships built 10 years before importation.

**11.** (1) No goods or passengers shall be transported by water, from one port or place in Canada to another port or place in Canada, either directly or by way of a foreign port or for any part of the transport, by means of any ship other than a ship licensed under this Part.

No goods or passengers transported except in licensed ships.

(2) If any goods or passengers are transported contrary to the provisions of this Part or otherwise than in accordance with the terms of the licence of the ship, the owner or any other person operating the ship is liable upon summary conviction to a fine in respect of goods so transported not exceeding fifty cents per ton gross tonnage of the ship or five hundred dollars, whichever is the greater, and

Penalty for contravention of this Part.



a fine in respect of passengers so transported not exceeding two hundred dollars for each passenger or five hundred dollars, whichever is the greater.

Power of  
detention.

(3) The Collector of Customs at any port or place in Canada may, if he believes that any ship to which this Part applies is transporting, or has transported, passengers or goods or both passengers and goods without a licence, in contravention of this Part, may detain the ship pending the disposition of any complaint or charge and the payment of any fine imposed in respect of such offence.

Suspension  
or cancel-  
lation of  
licence.

(4) If any licensee is convicted of an offence under this Act, or if the Board is satisfied that a ship is operated otherwise than in accordance with the terms of a licence applicable thereto, the Board may after hearing licensee suspend or cancel the licence of such licensee in respect of one or all of the ships licensed. 1938, c. 53, s. 11.

Coming into  
force by  
proclama-  
tion.

**12.** (1) This Part shall not come into force on, or in respect of, any sea or inland water of Canada until proclaimed by the Governor in Council to be in force on, or in respect of, such sea or inland water.

G. in C.  
exemption.

(2) The Governor in Council may by regulation exempt any ship or class of ships from the operation of this Part.

Transport of  
goods in  
bulk.

(3) The provisions of this Part do not apply to the transport of goods in bulk on waters other than the Mackenzie River.

Not applic-  
able to  
ships plying  
between  
certain  
ports.

(4) The provisions of this Part do not apply in the case of ships engaged in the transport of goods or passengers

(a) between ports or places in British Columbia, or

(b) between ports or places in Hudson Bay, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland, and the Gulf and River St. Lawrence east of the western point of the Island of Orleans, or between any two or more places therein,

nor does this Part apply between any of such ports or places and ports or places outside of Canada.

Provisions  
not to apply.

(5) The provisions of this Part do not apply in the case of ships engaged in the transport of goods or passengers between ports or places in the Maritime Provinces and ports or places on the Great Lakes, but such ships are subject to the provisions of this Part in respect of goods or passengers accepted for transport by water from a port or place on the Great Lakes to another port or place on the Great Lakes.

(6) Except as provided in subsection (7) the provisions of this Part do not apply in the case of ships engaged in the transport of goods or passengers between ports or

5108

places



places on the Pacific Ocean and ports or places on the Atlantic Ocean or the Great Lakes or both, but such ships are at liberty, notwithstanding the provisions of this Part, to receive at any number of ports or places on the Pacific Ocean goods or passengers consigned or destined to any number of ports or places on the Atlantic Ocean or the Great Lakes or both, and likewise to receive at any number of ports or places on the Atlantic Ocean or the Great Lakes or both, goods or passengers consigned or destined to any number of ports or places on the Pacific Ocean.

(7) The ships mentioned in subsection (6) are subject to the provisions of this Part in respect of goods or passengers accepted for transport by water from a port or place on the Pacific Ocean to another port or place on the Pacific Ocean or from a port or place on the Atlantic Ocean or on the Great Lakes to another port or place on the Atlantic Ocean or on the Great Lakes. 1938, c. 53, s. 12; 1945, c. 32, s. 3; 1949, c. 6, s. 36.

### PART III.

#### TRAFFIC, TOLLS AND TARIFFS.

**13.** (1) Every licensee shall be governed by the provisions of this Part in respect of tolls to be charged.

Licensee  
subject to  
tolls.

(2) Any tolls may be either for the whole or for any particular portion of the route of the licensee. 1938, c. 53, s. 16.

Tolls may  
be for the  
whole or  
portion.

**14.** (1) Every licensee shall file a standard tariff or tariffs of tolls with the Board for approval and may file such other tariff or tariffs as are authorized by this Part.

Licensee to  
file tariff  
with Board.

(2) Except as otherwise provided, any tariff in force may, subject to disallowance or change by the Board, be amended, supplemented, or superseded by new tariffs, in accordance with the provisions of this Part and regulations of the Board. 1938, c. 53, s. 17.

Tariffs in  
force may be  
supple-  
mented  
etc.

**15.** (1) If the licensee is a corporation, the licensee or the directors thereof by by-law or resolution or any officer of the licensee who is thereunto authorized by by-law or resolution of the licensee or its directors may, from time to time, prepare and issue tariffs of the tolls to be charged in respect of the operation of its ships, and may specify the persons to whom, the place where, and the manner in which, such tolls shall be paid.

If licensee a  
corporation.

By-laws to be submitted to the Board.

(2) All such by-laws or resolutions shall be submitted to the Board for approval.

Approval.

(3) The Board may approve such by-laws or resolutions in whole or in part, or change, alter or vary any of the provisions therein.

Tolls to be charged only after by-law approved by the Board.

(4) If the licensee is a corporation, no tolls shall be charged by the licensee or by any person until a by-law or resolution authorizing the preparation and issue of tariffs of such tolls has been approved by the Board; or, whether the licensee is a corporation or not, unless otherwise authorized by this Act, until a tariff of such tolls has been filed with, and, where such approval is required under this Act, approved by, the Board; or until any other requirements of this Act to bring such tariff into effect have been complied with; nor shall any tolls be charged under any tariff or portion thereof disallowed by the Board, or that has not been brought into operation in accordance with the provisions of this Act, nor shall the licensee charge, levy or collect any toll for any service except under and in accordance with the provisions of this Act. 1938, c. 53, s. 18; 1944-45, c. 25, s. 8.

Tolls to be as specified in tariff.

**16.** When a tariff is filed with and approved by the Board, where approval is necessary under this Act, the licensee shall thereafter, until such tariff is disallowed or suspended by the Board, or superseded by a new tariff, charge the toll or tolls as specified therein. 1938, c. 53, s. 19.

Division of tariffs.

**17.** The tariffs of tolls which a licensee shall be authorized to issue under this Part are divided into five classes:

- (a) standard freight tariffs;
- (b) special freight tariffs;
- (c) competitive freight tariffs;
- (d) standard passenger tariffs;
- (e) special passenger tariffs. 1938, c. 53, s. 20.

Standard tariffs.

**18.** (1) The standard tariff or tariffs shall specify the maximum mileage tolls to be charged for passengers and for each class of the freight classification for all distances covered by the licensee.

Approval of Board required.

(2) Every standard tariff and every amendment and supplement thereto requires the approval of the Board before it becomes effective. 1938, c. 53, s. 21.

Special tariffs.

**19.** Special tariffs shall specify a toll or tolls lower than in the standard tariffs. 1938, c. 53, s. 22.

**20.** (1) Competitive freight tariffs shall specify a toll or tolls lower than in the standard freight tariff to be charged between points which the Board may deem or have declared to be competitive points. Competitive freight tariffs.

(2) The Board may declare that any places are competitive points within the meaning of this Part. 1938, c. 53, s. 23. Competitive points.

**21.** (1) All tolls shall always under substantially similar circumstances and conditions, in respect of all traffic of the same description, and carried in like manner over the same route, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise. Equal application of tolls.

(2) No reduction or advance in any such tolls shall be made either directly or indirectly, in favour of or against any particular passenger or shipper. No discrimination among persons.

(3) No toll shall be charged that unjustly discriminates between different localities. 1938, c. 53, s. 24. No discrimination between localities.

**22.** (1) Every licensee shall, according to his powers and within the limits of the capacity of the ships specified in the licence, afford to all persons and companies all reasonable and proper facilities for the receiving, forwarding and delivering of traffic. Licensee to offer proper facilities.

(2) No licensee shall Offences.

(a) make or give any undue or unreasonable preference or advantage to, or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever;

(b) by any unreasonable delay or otherwise howsoever, make any difference in treatment in the receiving, loading, forwarding, unloading or delivery of the goods of a similar character in favour of or against any particular person or company; or

(c) subject any particular person or company, or any particular description of traffic, to any undue, or unreasonable prejudice or disadvantage, in any respect whatsoever. 1938, c. 53, s. 25; 1944-45, c. 25, s. 9.

**23.** The Board may disallow any tariff or any portion thereof that it considers to be unjust or unreasonable, or contrary to any provisions of this Part and may require the licensee, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed. 1938, c. 53, s. 26. Commission may disallow tariffs or portions.

Determin-  
ation as to  
discrimin-  
ation.

**24.** The Board may determine, as questions of fact, whether or not traffic is or has been carried under substantially similar circumstances and conditions, and whether there has, in any case, been unjust discrimination, or undue or unreasonable preference or advantage, or prejudice or disadvantage, within the meaning of this Part. 1938, c. 53, s. 27.

Onus on  
licensee *re*  
discrimin-  
ation.

**25.** Whenever it is shown that any licensee charges one person, company, or class of persons, or the persons in any district, lower tolls for the same or similar goods, or lower tolls for the same or similar services, than it charges to other persons, companies or classes of persons, or to the persons in another district, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll or difference in treatment does not amount to an undue preference, or an unjust discrimination, lies on the licensee. 1938, c. 53, s. 28.

Interest of  
the public  
to be  
considered  
when decid-  
ing whether  
there is  
unjust dis-  
crimination.

**26.** In deciding whether a lower toll, or difference in treatment, does or does not amount to an undue preference or an unjust discrimination, the Board may consider whether such lower toll, or difference in treatment, is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher tolls. 1938, c. 53, s. 29.

Offences of  
licensees  
or agents.

**27.** (1) Any licensee or shipper or any officer, employee or agent of such licensee or shipper who

(a) offers, grants or gives or solicits, accepts or receives any rebate, concession or discrimination, or

(b) knowingly is party or privy to any false billing, false classification, false report of weight or any other device,

whereby any person obtains transport by water for less than the lawful tolls applicable thereto, is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars.

Doing or  
omitting  
act  
prohibited  
or required.

(2) Any licensee or officer or agent of such licensee who does or omits any act, the doing or omission whereof is required or prohibited, as the case may be, and for which no other penalty is provided under this Act, is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars.

Prosecution  
by leave of  
Board.

(3) No prosecution shall be had or instituted for any offence under this section without leave of the Board first being obtained. 1938, c. 53, s. 30; 1944-45, c. 25, s. 10.



**28.** Notwithstanding anything in this Act, the Board may make regulations permitting the licensee to issue special rate notices prescribing tolls lower than the tolls in force upon the ships of the licensee, to be charged for specific shipments between points on the route or routes of the licensee, not being competitive points, if it considers that the charging of the special tolls mentioned in any such notices will help to create trade, or develop the business of the licensee, or be in the public interest, and is not otherwise contrary to the provisions of this Act. 1944-45, c. 25, s. 11.

Special rate  
notices to  
create trade  
may be  
permitted.

**29.** Notwithstanding anything in this Act a licensee engaged in transport by water may carry traffic free or at reduced rates to the same extent and subject to the same restrictions, limitations and control as are applied in the case of a railway company under the *Railway Act*. 1944-45, c. 25, s. 11.

Traffic free  
or at  
reduced  
rates.

**30.** The Board may by regulation,

Board  
regulations.

- (a) provide for the classification of freight and any changes therein from time to time, to be observed in connection with the operation and issue of all tariffs, which classification shall, in so far as it is practicable, be uniform throughout Canada;
- (b) provide for the form, size and style of tariffs;
- (c) provide for the notice that shall be given by a licensee of the issue of a tariff, or of any alteration or cancellation of a tariff, or any part thereof;
- (d) provide for the publication and posting by a licensee of every tariff;
- (e) provide for the date of coming into force of every tariff and of every alteration or cancellation of any tariff or any part thereof;
- (f) declare what shall constitute substantially similar circumstances and conditions or unjust or unreasonable preferences, advantages, prejudices or disadvantages, within the meaning of this Act;
- (g) require periodic returns to be made to the Board by licensees of their capital, traffic, expenditures and other information required by the Board;
- (h) provide for the imposition and collection of fines for neglect or omission to comply with regulations made hereunder; and
- (i) provide generally for such matters as, in the opinion of the Board, may be required for the purpose of this Act. 1938, c. 53, s. 33.

Transport of  
goods in  
bulk.

**31.** The provisions of this Part do not apply to the transport of goods in bulk on waters other than the Mackenzie River. 1945, c. 32, s. 4.

## PART IV.

### AGREED CHARGES.

Charges by  
agreement  
between  
parties.

**32.** (1) Notwithstanding anything in the *Railway Act*, or in this Act, but subject to this section, a carrier may make such charge or charges for the transport of the goods of any shipper or for the transport of any part of his goods as may be agreed between the carrier and that shipper.

(2) Any such agreed charge requires the approval of the Board, and the Board shall not approve such charge if, in its opinion, the object to be secured by the making of the agreement can, having regard to all the circumstances, adequately be secured by means of a special or competitive tariff of tolls under the *Railway Act* or this Act.

(3) When the transport is by rail from or to a competitive point or between competitive points on the lines of two or more carriers by rail the Board shall not approve an agreed charge unless the competing carriers by rail join in making the agreed charge.

Particulars  
of agreed  
charges to be  
filed with  
Board.

(4) Particulars of an agreed charge, including a duplicate original of the agreement, shall be lodged with the Board within seven days after the date of the agreement and notice of an application to the Board for its approval of the agreed charge shall be given at least thirty days before the hearing by publication in the *Canada Gazette* and in such other manner as the Board may direct.

How  
made and  
expressed.

(5) An agreed charge shall be made on the established basis of rate making and shall be expressed in cents per hundred pounds or such other unit as the Board may approve; and the car-load rate for one car shall not exceed the car-load rate for any greater number of cars.

Board  
approval  
of agreed  
charge.

(6) The Board may approve an agreed charge either for such period as it thinks fit or without restriction of time, and the date on which the charge shall become operative, or as from which it shall be deemed to have become operative, shall be such date, not being earlier than the date on which application for approval was lodged, as may be fixed by the Board.

Interested  
parties to be  
heard on  
application  
for approval  
of agreed  
charge.

(7) On an application to the Board for the approval of an agreed charge,

(a) any shipper who considers that his business will be unjustly discriminated against if the agreed charge is approved and is made by the carrier, or that his business

ness has been unjustly discriminated against as a result of the making of the charge by virtue of a previous approval;

(b) any representative body of shippers; and

(c) any carrier,

is, after giving such notice of objection, as may be prescribed by the Board, entitled to be heard in opposition to the application.

(8) Any shipper who considers that his business will be unjustly discriminated against if an agreed charge is approved and is made by the carrier, or that his business has been unjustly discriminated against as a result of the making of an agreed charge, may at any time apply to the Board for a charge to be fixed for the transport of his goods (being the same goods as or similar goods to and being offered for carriage under substantially similar circumstances and conditions as the goods to which the agreed charge relates) by the same carrier with which the agreed charge is proposed to be made, or is being made, and, if the Board is satisfied that the business of the shipper will be or has been so unjustly discriminated against, it may fix a charge (including the conditions to be attached thereto) to be made by such carrier for the transport of such goods.

Shipper may apply for a fixed charge to meet competition by an agreed charge.

(9) The Board, in fixing a charge, may fix it either for such period as it thinks fit or without restriction of time, and may appoint the date on which it is to come into operation, but no such charge shall be fixed for a period beyond that for which the agreed charge complained of by the shipper has been approved.

Conditions as to a fixed charge.

(10) An application under this section may, if it is convenient, be combined with an objection by the shipper to the application for the approval of the agreed charge of which he complains.

Applicant for fixed charge may object to agreed charge.

(11) Where the Board has approved an agreed charge without restriction of time,

Application for withdrawal of agreed charge—approval after one year.

(a) any shipper who considers that his business has been unjustly discriminated against as a result of the making of the agreed charge,

(b) any representative body of shippers, and

(c) any carrier,

may, at any time after the expiration of one year from the date of the approval, apply to the Board for the withdrawal of its approval of the agreed charge, and, upon any such application, the Board may withdraw, or refuse to withdraw, its approval, or may continue its approval subject to

such

such modifications being made in the charge as it thinks proper and as the carrier and the shipper to whose goods the charge is applicable are prepared to agree to; but where the Board has fixed a charge in favour of a shipper complaining of an agreed charge, such shipper is not entitled to make an application under this subsection in respect of that agreed charge in so far as it relates to goods that are the same as or similar to any goods to which the charge so fixed relates.

Publica-  
tion.

(12) All agreed charges shall, when approved, be published in the manner provided by section 333 of the *Railway Act*.

Effect of  
approval  
or of  
withdrawal  
of approval.

(13) Where under this section the Board withdraws its approval of an agreed charge or continues its approval of an agreed charge, subject to modifications, any charges fixed under subsection (7) in favour of a shipper complaining of that agreed charge shall cease to operate, or shall be subject to such corresponding modifications as the Board may determine.

Continuing  
approval.

(14) For the purpose of applications under this section a decision of the Board continuing its approval of a charge subject to agreed modifications shall be deemed to be the approval of an agreed charge.

Consider-  
ations to be  
given effect  
to on  
application.

(15) On any application under this section, the Board shall have regard to all considerations that appear to it to be relevant and, in particular, to the effect that the making of the agreed charge or the fixing of a charge is likely to have, or has had, on

(a) the net revenue of the carrier, and

(b) the business of any shipper by whom, or in whose interests, objection is made to approval being given to an agreed charge, or application is made for approval to be withdrawn. 1938, c. 53, s. 35.

If agreed  
charge  
causes an  
unfair  
advantage.

**33.** (1) Upon complaint to the Minister by any representative body of carriers that, in the opinion of the Minister, is properly representative of the interests of persons engaged in the kind of business (transport by water or rail, as the case may be), represented by such body that any existing agreed charge places such kind of business at any undue or unfair disadvantage, the Minister may, if satisfied that in the national interest the complaint should be investigated, refer such complaint to the Board for investigation and if the Board after hearing finds that the effect of such agreed charge upon such kind of business



is undesirable in the national interest the Board may make an order varying or cancelling the agreed charge complained of or may make such other order as in the circumstances it deems proper.

(2) Where under this section the Board cancels or varies an agreed charge, any charge fixed under this Part in favour of a shipper complaining of that agreed charge shall cease to operate, or shall be subject to such corresponding modifications as the Board may determine. 1938, c. 53, s. 36; 1944-45, c. 25, s. 12.

**34.** Nothing in this Part affects any right or obligation granted or imposed, by the *Maritime Freight Rates Act* or by paragraph (e) of section 1 of chapter 5 of the statutes of 1897, as extended and preserved by subsections (5) and (6) of section 328 of the *Railway Act*. 1938, c. 53, s. 37.

**35.** The provisions of this Part do not apply to the transport by water of goods in bulk on waters other than the Mackenzie River. 1945, c. 32, s. 5.

## PART V.

### HARBOUR TOLLS.

**36.** (1) The Board shall when requested by the Minister make inquiry, and at the conclusion thereof report to him, in respect of any harbour toll as to whether such harbour toll is just and reasonable under all the circumstances, and without restricting the generality of the foregoing the Board shall in the conduct of such inquiry have regard, *inter alia*, to,

(a) the service, privilege, advantage or benefit enjoyed or provided in respect of which the harbour toll is charged;

(b) the cost of providing, operating and maintaining the facilities and services of the harbour, including, without restricting the generality of the foregoing, interest on capital investment and depreciation;

(c) comparable tolls and charges payable at any harbour in Canada or elsewhere than in Canada;

(d) whether such harbour toll is under substantially similar circumstances and conditions charged equally to all persons;

(e) the effect of such harbour toll upon the movement of ships, goods or passengers, as the case may be, through the harbour and upon the movement of trade generally.

(2) The Board shall with its report transmit to the Minister a copy of the evidence taken by the Board in the course of its inquiry. 1938, c. 53, s. 40.

Recommendation  
to the  
Minister.

**37.** If the Board, after inquiry as hereinbefore provided is of the opinion that any harbour tolls should be amended or rescinded or other harbour tolls substituted therefor, it is the duty of the Board to forward with its report a recommendation to the Minister for such action as he deems fit. 1938, c. 53, s. 41.

Coming  
into force.

**38.** This Part shall not come into force until proclaimed as in force by the Governor in Council. 1938, c. 53, s. 42.

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EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1952



## CHAPTER 174.

An Act respecting the Canadian National Railways  
and the tariffs of tolls to be charged on certain  
Eastern lines.

### SHORT TITLE.

1. This Act may be cited as the *Maritime Freight Rates* Short title.  
*Act. R.S., c. 79, s. 1.*

### INTERPRETATION.

2. For the purposes of this Act the lines of railway now <sup>Eastern</sup> operated as a part of the Canadian National Railways and <sup>lines.</sup> situated within the Provinces of New Brunswick, Nova Scotia and Prince Edward Island, and the lines of railway, similarly operated, in the Province of Quebec extending from the southern provincial boundary near Matapedia and near Courchesne to Diamond Junction and Levis are collectively designated as the "Eastern lines." *R.S., c. 79, s. 2.*

### GENERAL.

3. (1) All persons or companies controlling, or concerned in the preparation and issue of tariffs of tolls to be charged in respect of the movement of freight traffic, whether on behalf of Her Majesty or otherwise, upon or over the Eastern lines specified in section 4, and hereinafter called "preferred movements," are hereby authorized and directed upon and after the 1st day of July, 1927, to

*Cancellation of tariffs and substitution of tariffs reduced by 20% on preferred movements.*

- (a) cancel all existing freight tariffs in respect of such preferred movements;
- (b) substitute other tariffs for the tariffs so cancelled showing a reduction in such tariffs of approximately twenty per cent.

Powers of  
Board.

(2) The Board of Transport Commissioners, hereinafter called the Board, is authorized and directed to

To approve  
cancellation  
and  
substituted  
tariffs.

(a) approve such cancellations, and, subject to the provisions of the *Railway Act*, respecting tariffs of tolls for the carriage of freight, where not inconsistent with this Act, to approve all tariffs of tolls so substituted;

Maintain  
substituted  
tariffs on  
general  
level of  
20% below  
existing  
rates.

(b) maintain or cause to be maintained such substituted tariffs, subject to all provisions of the *Railway Act* respecting tariffs of tolls not inconsistent with this Act, on the general rate level of approximately twenty per cent below the tolls or rates existing on the 1st day of July, 1927, while the cost of railway operation in Canada remains approximately the same as at the said date, but the Board may allow the increase or reduction of such tolls or tariffs from time to time to meet increases or reductions, as the case may be, in such cost of operations; and

Adjust or  
vary tariffs.

(c) adjust or vary such substituted tolls or rates from time to time as new industrial or traffic conditions arise, but always in conformity with the intent of this Act as expressed in sections 6 and 7 and other relative sections.

Substituted  
tariffs to  
continue  
until  
declared by  
Board to be  
inconsistent  
with this  
Act, and  
proper  
tariffs  
substituted.

(3) Since questions may arise whether substituted tariffs prepared and submitted to the Board are consistent or not consistent with this Act, it is declared that the finding of the Board that any tariff so substituted and approved is inconsistent shall take effect only upon such finding, and the tariff in question shall be deemed to be the lawful tariff until disallowed by the Board as inconsistent, and until a proper substituted tariff satisfactory to the Board is filed and approved. R.S., c. 79, s. 3; 1938, c. 53, s. 3.

Preferred  
movements.

4. (1) The following are preferred movements as referred to in section 3 and other sections:

Local  
traffic,  
all rail.

(a) local traffic, all rail—between points on the Eastern lines; for example, Sydney to Newcastle;

Traffic  
moving  
outward,  
westbound,  
all rail.

(b) traffic moving outward, westbound, all rail—from points on the Eastern lines westbound to points in Canada beyond the limit of the Eastern lines at Diamond Junction or Levis; for example, Moncton to Montreal—the twenty per cent reduction shall be based upon the Eastern lines proportion of the through rate or in this example upon the rate applicable from Moncton west as far as Diamond Junction or Levis;



(c) traffic moving outward, export traffic, rail and sea—  
from points on the Eastern lines through ocean ports  
on the Eastern lines destined overseas; for example,  
Fredericton to Liverpool via Saint John—the rate  
affected shall be that applicable from Fredericton to  
Saint John; Traffic moving outward, export traffic, rail and sea.

(d) traffic moving outward westbound rail-and-lake, and  
also rail-lake-and-rail from points on the Eastern lines  
westbound to points in Canada via ports beyond the  
limit of the Eastern lines at Diamond Junction or  
Levis; for example, Moncton to Winnipeg via the port  
of Point Edward thence via water to Port Arthur or  
Fort William—the twenty per cent shall be based upon  
the Eastern lines proportion of the through rate for the  
rail mileage from Moncton west as far as Diamond  
Junction or Levis. Westbound rail-and-lake traffic.

(2) Traffic moving over the car ferries shall be treated as Car ferries.  
all rail traffic. R.S., c. 79, s 4; 1951, (2nd Sess.), c. 51, s. 1.

5. For greater clearness, but without intending to enlarge Movements not preferred.  
by any omission the scope of section 4, it is declared that  
the following are not preferred movements:

(a) traffic moving inward or outward to or from the To or from U.S., all rail.  
United States, all rail—from or to points in the United  
States to or from points on the Eastern lines;

(b) traffic moving inward, eastbound, from Canada, all Inward from Canada, eastbound, all rail.  
rail—from points in Canada not on the Eastern lines  
eastbound to points on the Eastern lines; for example  
—Toronto to Moncton;

(c) import traffic to Canada, originating at points over- Imports to Canada from points overseas.  
seas; for example, Liverpool to Moncton or to To-  
ronto; and

(d) passenger movements and express movements. R.S., Passenger and express.  
c. 79, s. 5.

6. The rates specified in the tariffs of tolls, in this Act Rates are to be statutory rates.  
provided for, in respect of preferred movements, shall be  
deemed to be statutory rates, not based on any principle  
of fair return to the railway for services rendered in the  
carriage of traffic; and no argument shall accordingly be  
made, nor considered in respect of the reasonableness of  
such rates with regard to other rates, nor of other rates  
having regard to the rates authorized by this Act. R.S.,  
c. 79, s. 7.

Purpose of Act to give statutory advantages in select territory.

7. The purpose of this Act is to give certain statutory advantages in rates to persons and industries in the three Provinces of New Brunswick, Nova Scotia and Prince Edward Island, and in addition upon the lines in the Province of Quebec mentioned in section 2, together hereinafter called "select territory", accordingly the Board shall not approve nor allow any tariffs that may destroy or prejudicially affect such advantages in favour of persons or industries located elsewhere than in such select territory. R.S., c. 79, s. 8.

Other companies may take competing tariffs.

8. (1) Other companies owning or operating lines of railway in or extending into the select territory may file with the Board tariffs of tolls respecting freight movements similar to the preferred movements, meeting the statutory rates referred to in section 6; and the Board, subject to all the provisions of the *Railway Act* respecting tariff of tolls, not inconsistent with this Act, shall approve the tariffs of tolls filed under this section.

Sections 3 (2), 6 and 7 to apply.

(2) The provisions of subsection (2) of section 3 and of sections 6 and 7 apply to the tariffs of tolls filed under this section.

Board to certify normal tolls, and difference between tariff and normal tolls.

(3) The Board on approving any tariff under this section shall certify the normal tolls that but for this Act would have been effective and shall, in the case of each company, at the end of each calendar year promptly ascertain and certify to the Minister of Transport the amount of the difference between the tariff tolls and the normal tolls above referred to on all traffic moved by the company during such year under the tariff so approved; and the company is entitled to payment of the amount of the difference so certified, and the Minister of Transport shall submit such amount to Parliament if then in session, or if not, then at the first session following the end of such calendar year, as an item of the estimates of the Department of Transport.

Difference to be paid and included in estimates.

Revision of normal tolls.

(4) The Board shall, in every third year and at any time upon the request of the Governor in Council, ascertain and certify to the Minister of Transport whether under the provisions of the *Railway Act*, the normal tolls referred to in subsection (3), should be revised and in the event of such revision the revised normal tolls shall thereafter be used instead of the normal tolls referred to in the said subsection in calculating the difference to be paid to the Company thereunder. R.S., c. 79, s. 9; 1936, c. 34, s. 4.

**9.** (1) Other lines of railway from time to time operated within the select territory as part of the Canadian National Railways may be included within the Eastern lines as designated in section 2 and made subject to this Act by an Order or Orders of the Governor in Council; and any lines designated as Eastern lines may upon such lines ceasing to be operated as a part of the Canadian National Railways, be from time to time withdrawn from such designation of Eastern lines by similar Order or Orders.

Certain other lines of railway may be included within Eastern lines, or withdrawn therefrom.

(2) The Governor in Council is hereby authorized at any time or times at discretion to pass any Order in Council for the purposes and with the effect mentioned in this section. R.S., c. 79, s. 10.

Powers of Governor in Council.

**10.** The Board may hear and determine all questions arising under this Act subject to such rights of appeal as are provided in the *Railway Act*. R.S., c. 79, s. 11.

Board to decide questions, subject to appeals.

**11.** The interpretation clauses of the *Railway Act* apply to all words or expressions used in this Act. R.S., c. 79, s. 12.

Interpretation.

**12.** (1) Subject to this section, this Act applies *mutatis mutandis* to all lines of railway in the Island of Newfoundland that are subject to the legislative authority of the Parliament of Canada.

Application to Newfoundland.

(2) For the purposes of this Act the lines of railway situated within the Island of Newfoundland, including the steamship services between Port aux Basques and North Sydney, that are entrusted to the Canadian National Railway Company for management and operation shall from the date of and during the period of such entrustment be deemed to be included in the lines of railway collectively designated as the "Eastern lines", the Island of Newfoundland shall be deemed to be included in the expression "select territory" and through traffic moving by water between Port aux Basques and North Sydney shall be treated as all rail traffic.

Lines of railway.

(3) Upon entrustment to Canadian National Railway Company of the lines of railway mentioned in subsection (2), Canadian National Railway Company shall forthwith file with the Board of Transport Commissioners for Canada tariffs of tolls applicable to the carriage of traffic within, to and from the Island of Newfoundland and such tariffs, in so far as preferred movements are concerned, shall comply as far as appropriate with the provisions of this Act.

Tariffs of tolls.

When tariffs  
effective.

(4) Notwithstanding the provisions of sections 333, 334, 339 and 340 of the *Railway Act*, the tariffs initially filed under subsection (3) are effective from the date of entrustment. 1949, c. 6. s. 13.

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EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1952









## CHAPTER 211.

### An Act respecting Oil or Gas Pipe Lines.

#### SHORT TITLE.

- 1.** This Act may be cited as the *Pipe Lines Act*. 1949, Short title.  
c. 20, s. 1.

#### INTERPRETATION.

- 2.** (1) In this Act and in any Special Act, Definitions.
- (a) "Board" means the Board of Transport Commis- "Board."  
sioners for Canada;
- (b) "company" means a person having authority under "Company."  
a Special Act to construct or operate pipe lines for  
the transportation of oil or gas;
- (c) "company pipe line" or "line" means a pipe line for "Company  
the transportation of oil or gas that a company is pipe line" or  
under a Special Act authorized to construct or operate "line."  
or is owned by or leased to a company and that is  
subject to the legislative authority of the Parliament  
of Canada, and includes all branches, extensions, tanks,  
reservoirs, pumps, racks, loading facilities, inter-  
station systems of communication by telephone,  
telegraph or radio, and property real and personal and  
works connected therewith;
- (d) "gas" means any gaseous hydrocarbon; "Gas."
- (e) "lands" means the lands, the acquiring, taking or "Lands."  
using of which is authorized by this or the Special Act,  
and includes real property, messuages, lands, tenements  
and hereditaments of any tenure, and any easement,  
servitude, right, privilege or interest in, to, upon,  
under, over or in respect of the same;
- (f) "oil" means any liquid hydrocarbon; "Oil."
- (g) "pipe line" means every kind of pipe line and "Pipe line."  
includes a company pipe line;
- (h) "Special Act" means an Act of the Parliament of "Special  
Canada that authorizes a person named in the Act Act."

to construct or operate pipe lines for the transportation of gas or oil or that is enacted with special reference to such pipe lines; and

"Toll" or  
"Rate."

(i) "toll" or "rate" includes any toll, rate, charge or allowance charged or made for the shipment, transportation, care, handling or delivery of oil or gas, or for storage or demurrage or the like.

Application  
of *Railway*  
*Act*.

(2) Unless it is otherwise provided, words and phrases in this Act or in a Special Act have the same meaning as in the *Railway Act*. 1949, c. 20, s. 2.

#### CONSTRUING WITH SPECIAL ACTS.

General rules  
as to  
construing.

3. Except as in this Act otherwise provided,

(a) this Act shall be construed as incorporate with a Special Act, and

(b) where the provisions of this Act and a Special Act relate to the same subject-matter, the provisions of the Special Act shall, in so far as is necessary to give effect to the Special Act, be taken to override the provisions of this Act. 1949, c. 20, s. 3.

#### BOARD.

*Railway Act*  
procedure to  
apply.

4. The provisions of the *Railway Act* relating to sittings of the Board and the disposal of business, witnesses and evidence, practice and procedure, orders and decisions of the Board and appeal therefrom to the Supreme Court of Canada are applicable with respect to every inquiry, complaint, application or other proceeding under this Act, and the Board shall exercise and enjoy the same jurisdiction, powers and authority in matters under this Act as are vested in the Board by the *Railway Act*. 1949, c. 20, s. 4.

Board may  
order  
inspection  
or inquiry.

5. (1) The Board may appoint and direct any person to inspect a company pipe line or part thereof, whether constructed or in the course of construction, or to make an inquiry or report upon any application pending before the Board or upon any matter or thing over which the Board has jurisdiction under this or a Special Act.

Powers.

(2) The Board, or a person appointed under this Act to inspect or to make an inquiry or report, may

Entry.

(a) enter upon and inspect any building, works or property of a company;

Production.

(b) require the production of all books, records, vouchers, accounts, plans, specifications, drawings and papers of a company and inspect and examine them;

4300

(c)



(c) require the attendance of all such persons as it or he thinks fit to summon and examine, and require answers or returns to such inquiries as it or he thinks fit to make; and Attendance and returns.

(d) administer oaths, affirmations or declarations. Oaths.

(3) The Board, or a person appointed under this Act to inspect or to make an inquiry or report has the like power in summoning witnesses and enforcing their attendance, and compelling them to give evidence and produce books, papers or things that they are required to produce, as is vested in any court in civil cases. 1949, c. 20, s. 5. Like power as court.

6. The Board may review, rescind, change, alter or vary any order or decision made by it, or may rehear any application before deciding it. 1949, c. 20, s. 6. Board may review, etc.

#### POWERS OF A COMPANY.

7. A company may, for the purposes of its undertaking, subject to the provisions of this Act and the Special Act, Powers of company.

(a) enter into and upon any Crown land without previous licence therefor, or into or upon the land of any person, lying in the intended route of its line, and make surveys, examinations or other necessary arrangements on such land for fixing the site of the line, and set out and ascertain such parts of the land as are necessary and proper for the line; Entry upon and surveys of lands.

(b) purchase, take and hold of and from any person any land or other property necessary for the construction, maintenance and operation of its line and alienate, sell or dispose of any of its land or property that for any reason has become unnecessary for the purpose of the line; Acquisition and disposal of property.

(c) construct, lay, carry or place its line across, upon or under the land of any person on the located line of the company pipe line; Placing of line.

(d) join its line with the pipe line of any other person at any point on its route; Join with other lines.

(e) construct, erect and maintain all necessary and convenient roads, buildings, stations, depots, wharves, docks and other structures, and construct, purchase and acquire machinery and other apparatus necessary for the construction, maintenance and operation of its line; Buildings, equipment, etc.

- Branch lines. (f) construct, maintain and operate branch lines, and for that purpose exercise all the powers, privileges and authority necessary therefor, in as full and ample a manner as for a company pipe line;
- Alter and substitute other works. (g) from time to time alter, repair or discontinue the works or any of them, mentioned in this section, and substitute others in their stead;
- Transport oil or gas. (h) transport oil or gas by company pipe line and regulate the time and manner in which oil or gas shall be transported, and the tolls to be charged therefor; and
- Other necessary acts. (i) do all other acts necessary for the construction, maintenance and operation of its line. 1949, c. 20, s. 7.

Damage and compensation. **8.** A company shall, in the exercise of the powers granted by this Act or a Special Act, do as little damage as possible, and shall make full compensation in the manner provided in this Act and in a Special Act, to all persons interested, for all damage sustained by them by reason of the exercise of such powers. 1949, c. 20, s. 8.

Exercise of powers in United States. **9.** A company operating a company pipe line from a place in Canada to a place on the international boundary line may exercise, beyond such boundary, in so far as permitted by the laws there in force, the powers that it may exercise in Canada. 1949, c. 20, s. 9.

Limitations. **10.** A company shall not, without the leave of the Board,

- Sale, etc. (a) sell, convey or lease to any person its company pipe line, in whole or in part;
- Purchase, etc. (b) purchase or lease from any person any pipe line for the transportation of oil or gas;
- Amalgamation. (c) enter into an agreement for amalgamation with any other company; or
- Abandonment. (d) abandon the operation of a company pipe line. 1949, c. 20, s. 10.

## PART I.

### OIL OR GAS LINES.

#### *Location of Line.*

Board's approval required. **11.** A company shall not, except as in this Act otherwise provided, begin the construction of a section or part of a company pipe line, until

- Board order. (a) the Board has by order granted the company leave to construct the line;

- (b) the plan, profile and book of reference of the section or part of the proposed line have been approved by the Board; and Plan, profile, and book of reference.
- (c) copies of the plan, profile and book of reference so approved, duly certified as such by the Secretary of the Board, have been deposited in the offices of the registrars of deeds for the districts or counties through which such section or part of the company pipe line is to pass. 1949, c. 20, s. 11. Registration of certified copies.

**12.** (1) Upon an application for an order granting leave to construct a line, the company shall file with the Board a map showing the general location of the proposed line, the termini, and all cities, towns, villages, railways and navigable waters through, under or across which the line is to pass. Leave to construct. Map.

(2) The company shall file a copy of the application and of the map with the Attorney-General of each province to which the application relates in whole or in part, and the Board shall require notice of the application to be given by publication in newspapers or otherwise. Notice of application.

(3) Upon the application, the Board shall have regard to all considerations that appear to it to be relevant and in particular to the objection of any party interested, to a public interest that in the Board's opinion may be affected by the granting or the refusing of the application, and to the financial responsibility of the applicant. Application for leave.

(4) The decision of the Board as to whether a person is or is not a party interested within the meaning of this section is binding and conclusive. Decision as to party interested.

(5) Where the Board grants leave to construct a line, it may impose such terms and conditions as it considers proper and may limit the time within which the company shall construct and complete the line. 1949, c. 20, s. 12. Terms and conditions.

**13.** (1) When the Board has made an order granting a company leave to construct a pipe line, the company shall prepare and submit to the Board a plan, profile and book of reference. Plan, profile and book of reference.

(2) The plan and profile shall be drawn with such detail as the Board may require. Detail in plan and profile.

(3) The book of reference shall describe the portion of land proposed to be taken in each parcel of land to be traversed, giving the numbers of the parcels, and the area, length and width of the portion of each parcel to be taken, and the names of the owners and occupiers so far as they can be ascertained. Contents of book of reference.

Further  
information.

(4) The plan, profile and book of reference shall be prepared to the satisfaction of the Board, and the Board may require the company to furnish any further or other information that the Board considers necessary. 1949, c. 20, s. 13.

Effect of  
approval.

**14.** The Board shall not, by making an order granting a company leave to construct a line or by approving a plan, profile and book of reference, be deemed to have relieved the company from otherwise complying with this Act. 1949, c. 20, s. 14.

Board may  
fix time for  
acquiring  
lands.

**15.** At the time the Board approves a plan, profile and book of reference, or gives leave under this Act to take lands without the consent of the owner, or at any time thereafter, the Board may fix a period within which a company shall acquire the lands or take the necessary steps for such purpose. 1949, c. 20, s. 15.

### *Errors.*

Errors.

**16.** A company pipe line may be made, carried or placed across, upon or under the lands of a person on the located line, although, through error or any other cause, the name of that person has not been entered in the book of reference, or although some other person is erroneously mentioned as the owner of or entitled to convey or as interested in the lands. 1949, c. 20, s. 16.

Application  
for  
correction.

**17.** (1) Where any omission, mis-statement or error is made in a plan, profile or book of reference so registered, a company may apply to the Board for a certificate to correct the omission, mis-statement or error.

Certificate.

(2) The Board may in its discretion grant a certificate setting forth the nature of the omission, mis-statement or error and the correction allowed.

Registration.

(3) Upon the deposit of copies of the certificate, certified as such by the Secretary of the Board, with the registrars of deeds of the districts or counties, respectively, in which such lands are situate, the plan, profile or book of reference shall be taken to be corrected in accordance therewith, and the company may, thereupon, subject to this Act, construct its line in accordance with the correction. 1949, c. 20, s. 17.

### *Duties of Registrars of Deeds.*

Receipt,  
preservation  
and entry.

**18.** (1) Every registrar of deeds shall receive and preserve in his office all plans, profiles, books of reference, certified copies hereof and other documents, required by



this Act to be deposited with him, and shall endorse thereon the day, hour and minute when they were so deposited.

(2) All persons may resort to such plans, profiles, books of reference, copies and documents so deposited, and may make extracts therefrom and copies thereof, as occasion requires. Copies and extracts.

(3) A registrar of deeds shall, at the request of any person, certify copies of any plan, profile, book of reference, certified copy thereof or other document, deposited in his office under the provisions of this Act, or of such portions thereof as may be required, on being paid therefor at the rate of twenty cents for each hundred words copied, and such additional sum for any copy of plan or profile furnished by him as is reasonable and customary in like cases, together with one dollar for each certificate given by him. Registrar to furnish certified copies.

(4) The certificate of the registrar of deeds shall set forth that the plan, profile or document, a copy of which, or of any portion of which, is certified by him, is deposited in his office, and shall state the time when it was so deposited, and that he has carefully compared the copy certified with the document on file, and that it is a true copy of the original. Certificate of registrar.

(5) The certified copy is *prima facie* evidence of the original so deposited and is *prima facie* evidence that the original was so deposited at the time stated and certified, and that it was signed, certified, attested or otherwise executed by the persons by whom and in the manner in which the original purports to be signed, certified, attested or executed, as shown or appearing by the certified copy; and in the case of a plan, that the plan is prepared according to a scale and in a manner and form sanctioned by the Board. 1949, c. 20, s. 18. Evidence.

### *Further Plans.*

**19.** In addition to the plans, profiles and books of reference elsewhere provided for in this Act, a company shall, with all reasonable expedition, prepare and deposit with the Board any other or further plans, profiles or books of reference with respect to any portion of its company pipe line or works, that the Board may, from time to time, order or require. 1949, c. 20, s. 19. Further plans, etc., as Board requires.

### *Deviations.*

**20.** (1) When a deviation, change or alteration is required by a company to be made in its line, or any portion thereof, as already constructed, or as merely located and Plan, etc., to be submitted to Board

4305

approved

R.S., 1952.

approved, a plan, profile and book of reference of the portion of such line proposed to be changed, showing the deviation, change or alteration proposed to be made, shall be submitted for the approval of the Board.

Company may execute works after approval and deposit.

(2) When the plan, profile and book of reference of the portion of the line so proposed to be changed have been approved by the Board, and copies thereof have been deposited as provided in this Act with respect to the original plan, profile and book of reference, the company may make such deviation, change or alteration, and all the provisions of this Act are applicable to the portion of the line, at any time so changed or proposed to be changed, in the same manner as they are applicable to the original line.

Board may dispense with submissions of plans, etc.

(3) The Board may, either by general regulation or in a particular case, exempt a company from submitting the plan, profile and book of reference, as in this section provided, where the deviation change or alteration is made or to be made for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting a company pipe line, or for any other purpose of public advantage, as may seem to the Board expedient, if such deviation, change or alteration does not exceed three hundred yards from the centre line of the company pipe line, located or constructed in accordance with the plans, profiles and books of reference approved by the Board under this Act. 1949, c. 20, s. 20.

### *Taking and Using of Lands.*

Crown lands. **21.** (1) No company shall take possession of, use or occupy lands vested in the Crown, without the consent of the Governor in Council.

Crown lands along route of line and Crown lands covered by water.

(2) A company may, with the consent of the Governor in Council and upon such terms as the Governor in Council may prescribe, take and appropriate, for the use of its company pipe line and works, so much of the lands of the Crown lying on the route of the line that have not been granted or sold, as is necessary for the line, and also so much of the public beach, or bed of a lake, river or stream, or of the land so vested covered with the waters of such lake, river or stream as is necessary for making, completing and using its line and works.

Compensation where Crown lands held in trust.

(3) Where lands are vested in the Crown for a special purpose, or subject to a trust, the compensation money that a company pays therefor shall be held and applied by the Governor in Council for the like purpose or trust. 1949, c. 20, s. 21.

**22.** (1) No company shall take possession of or occupy a portion of an Indian reserve or lands, without the consent of the Governor in Council. Indian lands.

(2) Where, with the consent of the Governor in Council, a portion of an Indian reserve or lands is taken possession of, used or occupied by a company, or where the same is injuriously affected by the construction of a company pipe line, compensation shall be made therefor as in the case of lands taken without the consent of the owner. 1949, c. 20, s. 22. Compensation.

*Mines and Minerals.*

**23.** No company shall, without the authority of the Board, locate the line of its proposed company pipe line, or construct the company pipe line or portion thereof, so as to obstruct or interfere with or injuriously affect the working of or the access or adit to a mine then open, or for the opening of which preparations are, at the time of such location, being lawfully and openly made. 1949, c. 20, s. 23. Mines to be protected.

**24.** A company is not entitled to mines, ores, metals, coal, slate, oil, gas or other minerals in or under lands purchased by it, or taken by it under compulsory powers given to it by this Act, except only the parts thereof that are necessary to be dug, carried away or used in the construction of the works, and except as provided in this section, all such mines and minerals shall be deemed to be excepted from the conveyance of such lands. 1949, c. 20, s. 24. Company not entitled to minerals.

**25.** (1) No owner, lessee or occupier of mines or minerals lying under a company pipe line or any of the works connected therewith, or within forty yards therefrom, shall work the mines or minerals until leave therefor has been obtained from the Board. Mining under or within forty yards of any line.

(2) Notwithstanding the provisions of subsection (1) leave from the Board is not required in the case of a well taking oil or gas from lands lying under a company pipe line or any of the works connected therewith if the well is not drilled within forty yards of the line. Use of oil or gas well.

(3) Upon an application to the Board for leave to work mines or minerals, the applicant shall submit a plan and profile of the portion of the company pipe line to be affected thereby, and of the mining works or plant affecting the line, proposed to be constructed or operated, giving all reasonable and necessary information and details as to the extent and character of the same. Application to Board for leave.



Protection  
and safety  
of the  
public.

(4) The Board may grant the application upon such terms and conditions for the protection and safety of the public as to the Board seems expedient, and may order that such other works be executed, or measures taken, as under the circumstances appear to the Board best adapted to remove or diminish the danger arising or likely to arise from mining operations. 1949, c. 20, s. 25.

Board may  
order com-  
pensation in  
certain  
cases.

**26.** A company shall, from time to time, pay to the owner, lessee or occupier of any mines such compensation as the Board shall fix and order to be paid for or by reason of any severance by a company pipe line of the land lying over such mines, or because of the working of the mines being prevented, stopped or interrupted, or because of the mines having to be worked in such manner and under such restrictions as not to injure or be detrimental to the line, and also for any minerals not purchased by the company that cannot be obtained by reason of the construction and operation of its line. 1949, c. 20, s. 26.

Examina-  
tion of mine  
workings.

**27.** If necessary in order to ascertain whether mines are being worked, or have been worked, so as to injure or be detrimental to a company pipe line or its safety or the safety of the public, a company may, with the written permission of the Board and after giving twenty-four hours' notice in writing, enter upon any lands through or near which its line passes wherein any mines are being worked, and enter into and return from the mines or works connected therewith; and for such purposes the company may make use of any apparatus of the mines and use all necessary means for discovering the distance from its line to the parts of the mines that are being worked. 1949, c. 20, s. 27.

#### *Extent of Lands That May be Taken.*

Lands taken  
without  
consent.

**28.** Subject to section 29, the lands that may, without the consent of the owner, be taken for the right of way of a company pipe line shall not exceed sixty feet in breadth. 1949, c. 20, s. 28.

#### *Leave to Take Additional Lands.*

Where more  
ample space  
required.

**29.** (1) Where a company at any time requires more ample space than it possesses or may take under section 28, for the efficient construction, maintenance or operation of a company pipe line or for constructing or taking any works or measures ordered by the Board, it may apply to the Board for authority to take, without the consent of the owner, the additional lands required for such purposes.



(2) The company shall give to the owner or possessor of the additional lands required, ten days' notice of its application to the Board, and shall, upon such application, furnish to the Board copies of such notices, with affidavits of the service thereof.

(3) The company, upon the application, shall also furnish to the Board such plans, profiles and books of reference and additional information as the Board may require.

(4) After the time stated in such notices, and the hearing of such parties interested as may appear, the Board may, in its discretion and upon such terms and conditions as it deems expedient, authorize in writing the taking for the said purposes of the whole or any portion of the lands applied for.

(5) Copies of the authorization of the Board and of the plan, profile and book of reference, certified as such by the Secretary of the Board, shall be deposited with the registrars of deeds of the districts or counties in which the lands are situate. 1949, c. 20, s. 29.

#### *Certain Sections of the Railway Act to Apply.*

**30.** Sections 207 to 246, 248 and 251 of the *Railway Act*, in so far as they are reasonably applicable and not inconsistent with this Act, apply *mutatis mutandis* to companies and their works and undertaking. 1949, c. 20, s. 30.

#### *Crossings.*

**31.** (1) The company pipe line of a company may, if leave therefor is first obtained from the Board, be carried across any highway, railway, irrigation ditch, underground telegraph, telephone or electric power line or pipe line and for such purpose may be constructed upon, along or under any such highway, railway, irrigation ditch, underground telegraph, telephone or electric power line or pipe line.

(2) Upon any application for such leave, a company shall submit to the Board such plans and profiles and other information as the Board may require.

(3) The Board may, by order, grant the application in whole or in part and upon such terms and conditions as the Board considers proper.

(4) The Board may, with reference to any mode of construction mentioned in subsection (1), provide by order that leave of the Board is not necessary, if the company pipe line is constructed in accordance with the orders, regulations, plans and specifications made, adopted or approved by the Board for such purposes.

Leave  
required in  
most  
cases.

(5) Except as provided in subsection (4), a company pipe line shall not be constructed in any of the modes mentioned in subsection (1) without leave of the Board under this section. 1949, c. 20, s. 31.

Leave to  
construct  
highways,  
etc., across  
line.

**32.** (1) A highway, private road, railway, irrigation ditch, drain, telegraph, telephone or electric power line, or any pipe line may, by leave of the Board, be carried across any company pipe line and for such purposes may be constructed upon, along, under or across such company pipe line.

Board's  
powers.

(2) Upon application for leave, the Board may grant the application in whole or in part and upon such terms and conditions as the Board considers proper. 1949, c. 20, s. 32.

#### *Diversion of Line.*

Board may  
order  
diversion.

**33.** The Board may, upon such terms and conditions as it considers proper, direct a company to divert or relocate its company pipe line if the Board is of the opinion that the diversion or relocation is necessary to facilitate the construction, reconstruction or relocation of a highway or a railway or any other work affecting a public interest. 1949, c. 20, s. 33.

#### *Operation of Line.*

Leave of  
Board for  
opening line.

**34.** No company pipe line and no section thereof shall be opened for the transportation of oil or gas until leave therefor has been obtained from the Board. 1949, c. 20, s. 34.

Board may  
order  
repairs, etc.

**35.** (1) To promote safety of operation of a company pipe line, the Board may order the company to repair, reconstruct or alter part of the line and may direct that, until the work has been done, such part of the line shall not be used.

Board may  
regulate  
respecting  
safety.

(2) The Board may make orders and regulations providing for the protection of property and the safety of the public and of the company's employees in the operation of a company pipe line. 1949, c. 20, s. 35.

#### *Weeds.*

Company to  
cut weeds,  
etc.

**36.** A company shall cut thistles and all noxious weeds growing on the right of way, and upon the land of the company adjoining its company pipe line, and shall cut down or root out and destroy such thistles and weeds each year before they have sufficiently matured to seed. 1949, c. 20, s. 36.

*Exemptions.*

**37.** (1) The Board may make orders or regulations Exemptions. exempting lines or parts of lines, not exceeding in any one case twenty-five miles in length, from any or all of the provisions of this Part relating to location, construction, or operation of lines.

(2) In any order or regulation made under this section Terms and conditions. the Board may impose such terms and conditions as it considers proper. 1949, c. 20, s. 37.

## PART II.

## OIL LINES.

*Common Carriers.*

**38.** This Part applies in respect of company pipe lines Part applies to oil lines. for the transportation of oil and to companies operating such lines. 1949, c. 20, s. 38.

**39.** The Board may, by order, declare a company to Board may declare companies to be common carriers. be a common carrier whether the company has or has not acted or held itself out as a common carrier, and the expression "common carrier" in the following sections of this Part means a company that has been declared by the Board to be a common carrier. 1949, c. 20, s. 39.

*Traffic, Tolls and Tariffs.*

**40.** The Board may make orders and regulations with Board may regulate tolls, etc. respect to all matters relating to traffic, tolls or tariffs. 1949, c. 20, s. 40.

**41.** (1) Subject to such exceptions, conditions or regulations as the Board may prescribe or approve, a common carrier shall, according to its powers, without delay and with due care and diligence, receive, transport and deliver all oil offered for transportation by means of its company pipe line. Duty of common carrier.

(2) The Board may require a common carrier to provide Board may order company to provide facilities. adequate and suitable facilities for the receiving, transporting and delivering of all oil offered for transportation by means of its company pipe line and adequate and suitable facilities for the storage of oil and the junction of its line with other pipe lines. 1949, c. 20, s. 41.

**42.** A common carrier shall not charge any tolls except Tolls must be approved. tolls specified in a tariff that has been filed with the Board and is in effect. 1949, c. 20, s. 42.

Equal tolls  
to be  
charged.

**43.** All tolls shall be just and reasonable, and shall always, under substantially similar circumstances and conditions with respect to all traffic of the same description carried over the same route, be charged equally to all persons at the same rate. 1949, c. 20, s. 43.

Board may  
disallow and  
substitute.

**44.** The Board may disallow any tariff or any portion thereof that it considers to be contrary to any of the provisions of this Act or to any order or regulation of the Board, and may require a company, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed. 1949, c. 20, s. 44.

Board may  
suspend.

**45.** The Board may suspend any tariff or any portion thereof before or after the tariff goes into effect. 1949, c. 20, s. 45.

#### *Unjust Discrimination.*

No dis-  
crimination.

**46.** A common carrier shall not make any unjust discrimination in rates, service or facilities against any person or locality. 1949, c. 20, s. 46.

Burden of  
proof.

**47.** Where it is shown that a common carrier makes any discrimination in rates, service or facilities against any person or locality, the burden of proving that the discrimination is not unjust lies upon the common carrier. 1949, c. 20, s. 47.

Offence and  
penalty.

**48.** (1) A common carrier or shipper or an officer, employee or agent of the common carrier or shipper who  
(a) offers, grants, gives, solicits, accepts or receives a rebate, concession or discrimination, or  
(b) knowingly is party or privy to a false billing, false classification, false report or other device,

whereby a person obtains transportation of oil by a common carrier at a less rate than that named in the tariffs then in force, is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

Prosecution  
by leave.

(2) No prosecution shall be had or instituted for an offence under this section without leave of the Board. 1949, c. 20, s. 48.

#### *Contracts Limiting Liability.*

Contracts,  
etc.,  
impairing  
carriers'  
liability.

**49.** (1) Except as provided in this section, no contract, condition or notice made or given by a common carrier impairing, restricting or limiting its liability in respect of the transportation of oil shall relieve the common carrier



from its liability, unless such class of contract, condition or notice has been first authorized or approved by order or regulation of the Board.

(2) The Board may, in any case or by regulation, determine the extent to which the liability of a common carrier may be so impaired, restricted or limited. Board may determine limits.

(3) The Board may prescribe the terms and conditions under which oil may be carried by a common carrier. 1949, c. 20, s. 49. Board may prescribe terms.

### PART III.

#### GAS LINES.

**50.** This Part applies in respect of company pipe lines for the transportation of gas and to companies operating such lines. 1949, c. 20, s. 50. Part applies to gas lines.

**51.** Where the Board finds such action necessary or desirable in the public interest, it may direct a company to extend or improve its transportation facilities to provide facilities for the junction of its company pipe line with any pipe line of, and sell gas to, any person or municipality engaged or legally authorized to engage in the local distribution of gas to the public, and for such purposes to construct branch lines to communities immediately adjacent to its company pipe line, if the Board finds that no undue burden will be placed upon the company thereby, but the Board has no power to compel a company to sell gas to additional customers if to do so would impair its ability to render adequate service to its existing customers. 1949, c. 20, s. 51. Power of Board to order extension of services.

### PART IV.

#### ACCOUNTS.

**52.** The Board may prescribe or make regulations with respect to Regulations by Board.

- (a) the manner in which the accounts of a company shall be kept; Manner of keeping accounts.
- (b) the classes of property for which depreciation charges may properly be included under operating expenses, and the rate or rates of depreciation that shall be charged with respect to each of such classes of property; and Depreciation charges.

- (c) a uniform system of accounts applicable to any class of company. 1949, c. 20, s. 52. Uniform system.

## STATISTICS.

Returns.

**53.** (1) Every person constructing or operating a pipe line for the transportation of oil or gas shall prepare and furnish to the Board returns of its capital, traffic, revenues, expenses and all other information required by the Board.

Attestation,  
etc.

(2) The returns required by subsection (1) shall be signed and attested by such person or persons and shall be made for such periods as the Board may direct. 1949, c. 20, s. 53.

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EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1952

**RULES OF PRACTICE  
OF THE  
BOARD OF TRANSPORT COMMISSIONERS  
FOR CANADA**

Made and Adopted by General Order No. 726

Dated the 17th day of June, 1949

1. These rules govern practice and procedure before the Board, unless the Board directs or permits a departure therefrom in any proceeding.

**Interpretation**

2. In these rules, unless the context otherwise requires
- (a) "affidavit" includes a written affirmation;
  - (b) "application" includes complaint;
  - (c) "costs" includes fees, counsel fees and expenses;
  - (d) "respondent" means the person called upon to answer any application;
  - (e) "Secretary" means the Secretary of the Board;
  - (f) words in the singular include the plural and words in the plural include the singular.

**Application**

3. (1) Every proceeding before the Board shall be commenced by an application made to it, which shall be in writing and signed by the applicant or the applicant's solicitor.

(2) The application shall

(a) contain a clear and concise statement of the facts, the grounds of application, the name and section of the Act under which it is made, the nature of the order applied for and the relief or remedy to which the applicant claims to be entitled;

(b) be divided into paragraphs, numbered consecutively, each of which shall be confined as nearly as possible to a distinct portion of the subject;

(c) be endorsed with the name and address of the applicant or of a solicitor acting for him in the matter, and, if it is an application affecting any other party, be endorsed with notice as to mailing or delivery of answer as set forth in the form of endorsement given in Schedule No. 1.

(3) Where the applicant applies for an order approving the issue, sale or other disposition of the applicant's capital stock or any part thereof, the applicant shall publish a notice of the application in the **Canada Gazette** for two

consecutive weeks and in such other manner as the Board may direct. The notice shall be in such form as is approved by the Board. The application will not be considered or dealt with by the Board until after the expiration of fifteen days from the date of the first publication of the notice.

(4) The applicant shall mail or deliver the application and any document, specification, map, plan, profile and book of reference required to be submitted to the Board or which may be useful in explaining or supporting the application, to the Secretary, and a copy of the same to every other party affected by the application.

(5) Every application containing a complaint against a provision in a tariff shall give the C.T.C. number of the tariff and specify the provision complained of. Where an application is for the suspension or postponement of the effective date of any tariff schedule, or any of the provisions of a tariff schedule, which advances any toll previously authorized in a tariff schedule on file with the Board, the application shall be made at least ten days before the effective date of the tariff schedule or tariff provisions complained of.

(6) Example of forms of application are given in Schedule No. 1.

### Answer

4. (1) A respondent who intends to oppose the application shall mail or deliver a written statement containing his answer to the application, together with any documents that may be useful in explaining or supporting the answer, to the Secretary, and a copy of the answer and documents to the applicant or his solicitor.

(2) The answer shall be clear and concise; it may admit or deny any or all of the facts alleged in the application; it shall be divided into paragraphs, numbered consecutively; it shall be signed by the person making it, or his solicitor; it shall be endorsed with the name and address of the respondent or the solicitor acting for him in the matter, and with notice as to mailing or delivery of reply as set forth in the form of endorsement given in Schedule No. 2.

(3) An example of the form of answer is given in Schedule No. 2.

(4) The time limit for filing and delivery of answer shall be twenty days from the date of service of the application where the application arises in the Province of Ontario or Quebec, and thirty days from such date where the application arises elsewhere.



(5) If a party does not mail or deliver his answer within the time limit above prescribed, the application may be disposed of without further notice to him.

### **Reply**

5. (1) Within ten days after an applicant receives an answer from a respondent, the applicant may mail or deliver a reply thereto to the Secretary, and a copy thereof to such respondent or his solicitor.

(2) The applicant in his reply may object to the answer as being insufficient, stating the grounds of the objection, and may admit or deny any or all of the facts alleged in the answer. The reply shall be signed by the applicant or his solicitor.

(3) An example of the form of reply is given in Schedule No. 3.

### **Verification**

6. The Board may at any time require the whole or any part of an application, answer or reply to be verified by affidavit, by giving a notice to that effect to the party from whom the affidavit is required. If the notice is not complied with, the Board may set aside the application, answer or reply or strike out any part not verified according to the notice.

### **Suspension of Proceedings**

7. (1) The Board may require further information, particulars or documents from any party, and may stay all formal proceedings until satisfied in that respect.

(2) Whenever the Board directs that an inquiry be made, it shall give notice thereof to the parties interested, and may stay proceedings or any part of the proceedings as it thinks fit.

### **Notice**

8. (1) If the Board enlarges or abridges the period for putting in the answer or reply, the period so enlarged or abridged shall be specified in the notice endorsed on the application or answer as the case may be.

(2) Unless otherwise provided, fifteen days' notice of any application to the Board shall be sufficient.

(3) Service of any notice may be effected by mail.

(4) Except as otherwise provided by statute, when the Board is authorized to hear an application, complaint or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwith-

standing any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties; and such order or decision shall be as valid and take effect in all respects as if made on due notice.

(5) Any company or person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of such order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind such order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind such order or decision, or dismiss the application, as may seem to it just and right.

(6) When an application is ready for hearing, the Secretary shall set it down for hearing at such time and place as the Board may direct.

(7) Any party to an application may request the Board to have it set down for hearing.

(8) When an application is set down by the Secretary for hearing, he shall give fifteen days' notice, or such longer or shorter notice as the Board shall direct, to all parties interested.

### Consent Cases

9. In any proceedings the parties may, by consent in writing with the approval of the Board, dispense with the form of proceedings herein mentioned, or some portion thereof.

### Power to Direct and Settle Issues

10. If it appears to the Board at any time that the statements in the application, answer, or reply do not sufficiently raise or disclose the issue of fact in dispute between the parties, it may direct them to prepare issues, and such issues shall, if the parties differ, be settled by the Board.

### Preliminary Questions of Law

11. If it appears to the Board at any time that there is a question of law which it would be convenient to have decided before further proceeding with the case, it may direct such question to be raised for its information, either by special case or in such other manner, as it may deem expedient, and the Board may, pending such decision, order the whole or any portion of the proceedings before the Board, in such matter, to be stayed.

### Conference

12. The Board may direct, orally or in writing, parties or their solicitors to appear before a member or an officer of the Board at a specified time and place for a conference prior to or during the course of a hearing or, in lieu of personally appearing, to submit suggestions in writing, for the purpose of formulating issues and considering—

- (a) the simplification of issues;
- (b) the necessity or desirability of amending the application, answer or reply for the purpose of clarification, amplification or limitation;
- (c) the making of admissions of certain facts or the proof of them by affidavit or the use by any party of matters of public record, for example, annual reports;
- (d) the procedure at the hearing;
- (e) the mutual exchange among the parties of documents and exhibits proposed to be submitted at the hearing; and
- (f) such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

### Communication with Parties

13. The Board may communicate with the parties direct and require answers to such inquiries as it may consider necessary.

### Production and Inspection of Documents

14. Any party shall be entitled, at any time, before or at the hearing of the case, to give notice in writing to any other party in whose application, answer or reply reference was made to any document, to produce the document for the inspection of the party giving such notice, or his solicitor, and to permit him to take copies thereof. Any party who does not comply with such notice within ten days from the receipt thereof shall not afterwards be at liberty to put such document in evidence on his behalf in the proceedings, unless he satisfies the Board that he had sufficient cause for not complying with the notice.

### Notice to Produce

15. Any party may give to any other party a notice in writing to produce such documents, specifying them, as relate to any matter in difference which are in the possession or control of such other party, and, if the notice is not complied with, secondary evidence of the contents of the documents may be given by or on behalf of the party who gave the notice.

16. Any party may give to any other party a notice in writing to admit any document, saving all just exceptions, and in case of neglect or refusal to admit, after such notice, the cost of proving the document shall be paid by the party so neglecting or refusing, whatever the result of the application may be, unless on the hearing the Board certifies that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give the notice is, in the opinion of the Board, a saving of expense.

### Witnesses

17. The attendance and examination of witnesses and the production and inspection of documents shall be enforced in the same manner as in a Superior Court. Subpoenas shall be sealed by the Secretary with the Board's seal and may be served in any part of Canada; they may be issued in blank and may be completed by the solicitor or party, and any number of names may be inserted in one subpoena.

### The Hearing

18. (1) The witnesses at the hearing shall be examined *viva voce*, but the Board may, at any time, for sufficient reason, order that any particular facts may be proved by affidavit or that the affidavit of any witness may be read at the hearing, on such conditions as it may think reasonable, or that any witness whose attendance ought, for some sufficient reason, to be dispensed with, be examined before a Commissioner or officer of the Board or any other person appointed by it for that purpose, who shall have authority to administer oaths, and before whom all parties shall attend. The evidence taken before the Commissioner shall be confined to the subject matter in question, and any objection to the admission of evidence shall be noted by the Commissioner and dealt with by the Board at the hearing. Such notice of the time and place of examination as is prescribed in the order shall be given to the parties. All examinations shall be returned to the Board, and the depositions, certified under the hand of the person taking them, may without further proof be used in evidence, saving all just exceptions. The Board may require further evidence to be given *viva voce* or by depositions taken before a Commissioner or other person appointed by it for that purpose.

(2) The Board may, whenever it deems it advisable to do so, require written briefs to be submitted by the parties.



(3) The hearing, when once commenced, shall proceed, so far as in the opinion of the Board may be practicable, from day to day.

### Sittings

19. Sittings will be held in the Court Room of the Board at Ottawa, and elsewhere in any part of Canada, as the Board may determine and appoint. The Board may hold more than one sitting at the same time.

### Judgment of the Board

20. (1) Upon any application made to the Board, the Board may make an order granting the whole or part only of such application, or may grant such further or other relief, in addition to or in substitution for that applied for, as to the Board may seem just and proper, as fully in all respects as if such application had been for such partial, other, or further relief.

(2) The Board may give orally or in writing the reasons for its decisions. It shall not be necessary to hold a Court merely for the purpose of giving decisions.

21. (1) Any decision or order made by the Board may be made a rule, order or decree of the Exchequer Court, or of any superior court of any province of Canada, and shall be enforced in like manner as any rule, order or decree of such court.

(2) To make such decision or order a rule, order or decree of any such court, the usual practice and procedure of the court in such matters may be followed; or, in lieu thereof, the Secretary may make a certified copy of such decision or order, upon which shall be made the following endorsement signed by the Chief Commissioner and sealed with the official seal of the Board:—

“To move to make the within a rule (order or decree, as the case may be) of the Exchequer Court of Canada (or as the case may be).

Dated this .... day of .....A.D. 19.....  
(Seal)

Chief Commissioner of the Board of  
Transport Commissioners for Canada.”

### Alteration or Rescinding of Orders

22. Any application to the Board to review, rescind or vary any decision or order made by it shall be made within thirty days after the decision or order is communicated to the parties, unless the Board enlarges the time for making the application, or otherwise orders.

### Appeal

23. (1) If a party desires to ask the Board for leave to appeal to the Supreme Court of Canada from a decision or order of the Board, he shall give ten days' notice thereof to the opposite party, and to the Secretary. The notice shall state the question upon which leave to appeal is sought and the grounds of the appeal.

(2) As to an appeal to the Supreme Court of Canada upon a question of jurisdiction by leave of a judge of that Court, see sub-section 2 of section 52 of the Railway Act.

(3) For procedure upon leave being obtained, see sub-section 4 et seq. of section 52 of the Railway Act.

(4) An example of the form of notice of appeal is given in Schedule No. 4.

### Interim Ex Parte Orders

24. The Board may, if the special circumstances of any case so require, make an interim ex parte order authorizing, requiring or forbidding anything to be done which the Board would be empowered, on application, notice and hearing, to authorize, require or forbid; but no such interim order shall be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined.

### Affidavits

25. (1) Affidavits of service shall forthwith after service be filed with the Secretary in respect of all documents or notices required to be served, except when notice is given or served by the Secretary, in which event no affidavit of service shall be necessary.

(2) All persons authorized to administer oaths to be used in any of the superior courts of any province may administer oaths in such province to be used in applications, matters or proceedings before the Board.

(3) Affidavits in proceedings before the Board shall be filed with the Secretary.

(4) Where an affidavit is made as to belief, the grounds upon which the same is based shall be set forth.

### Computation of Time

26. (1) If the time limited by these rules for any proceeding, or the doing of any thing, expires or falls upon a Sunday or any other legal holiday, as provided by the Statutes of Canada, the time so limited shall be extended to, and such thing may be done on the day next following which is not a holiday.

(2) Where a number of days not expressed to be "clear

days" is prescribed, the same shall be reckoned exclusively of the first day and inclusively of the last.

### **Adjournment**

27. The Board may, from time to time, adjourn any proceedings before it.

### **Amendment**

28. The Board may at any time allow any of the proceedings to be amended, or may order to be amended or struck out any matters which, in the opinion of the Board, may tend to prejudice, embarrass, or delay a fair hearing of the case upon its merits; and all such amendments shall be made as may, in the opinion of the Board, be necessary for the purpose of hearing and determining the real question in issue between the parties.

### **Formal Objections**

29. No proceedings shall be defeated or affected by any technical objections or any objections based upon defects in form merely.

### **Practice of Exchequer Court When Applicable**

30. In any case not expressly provided for by Statute or these rules, the general principles of practice in the Exchequer Court may be adopted and applied, at the discretion of the Board, to proceedings before it.

### **Costs**

31. The costs of and incidental to any proceedings before the Board shall be in the discretion of the Board, and may be fixed in any case at a sum certain, or may be taxed. The Board may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed.

**Schedule No. 1**

(Forms of application)

**THE BOARD OF TRANSPORT COMMISSIONERS  
FOR CANADA**

A. B. of (address) hereby applies to the Board for an Order under sections 272-273 of the Railway Act, directing the \_\_\_\_\_ Railway Company to provide and construct a suitable farm crossing where the Company's railway intersects his farm in Lot \_\_\_\_\_ Con. Tp. \_\_\_\_\_, County of \_\_\_\_\_, Ontario, and states—

1. That he is the owner of the land etc.
2. That by reason of the construction of the said railway he is deprived, etc.
3. That it is necessary for the proper enjoyment of his said land, etc.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19 \_\_\_\_ .  
(Signed) A. B.

Endorsement where notice is required.

The within application is made by A.B., of (state address), (or by C. D., of \_\_\_\_\_, his solicitor).

Take notice that the within named Railway Company is required to mail or deliver its answer to the within application, to the Secretary of the Board of Transport Commissioners for Canada, and a copy thereof to the applicant or his solicitor, within \_\_\_\_\_ days after the service hereof.

(See rule 4(4) ).



**Schedule No. 2**  
(Form of answer)

**THE BOARD OF TRANSPORT COMMISSIONERS  
FOR CANADA**

In the matter of the application of A. B. for an Order under sections 272-273 of the Railway Act, directing Railway Company to provide a farm crossing.

Railway Company in answer to the said application states:—

1. That the said A. B. is not the owner but merely, etc.
  2. That upon the acquisition of the right of way of the said Railway, A.B. was duly paid for and released, etc.
  3. That the said A.B. has other safe and convenient means, etc.
  4. That, etc.
- Dated, etc.

A.D. 19 .  
(Signed)

**Endorsements**

The within answer is made by \_\_\_\_\_ Railway Company (or by E. F., of \_\_\_\_\_, its Solicitor).

Take notice that the within named Applicant is required to mail or deliver his reply to the within answer to the Secretary of the Board of Transport Commissioners for Canada, and a copy thereof to the within named Railway Company or its solicitor, within ten days after the service hereof.

**Schedule No. 3**  
(Reply)

**THE BOARD OF TRANSPORT COMMISSIONERS  
FOR CANADA**

In the matter of the application of A.B. against the Company.

The said A.B., in reply to the answer of the said Company, states that:—

- 1.
  2. And the said A.B., admits that
- Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19 .  
(Signed A. B.)

**Schedule No. 4**

(Notice of Appeal)

**THE BOARD OF TRANSPORT COMMISSIONERS  
FOR CANADA**

In the matter of the application No. \_\_\_\_\_ of  
A.B., for an order under sections 272-273 of the Railway  
Act, authorizing the \_\_\_\_\_ Railway, etc., etc.

Take notice that the \_\_\_\_\_ Company will apply  
to the Board on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_,  
at the hour of \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, for  
leave to appeal to the Supreme Court of Canada from  
Order of the Board No. \_\_\_\_\_, dated the \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_\_, upon the following question of law  
(or of jurisdiction, or both, as the case may be).

(State question).

The grounds of appeal are

Dated \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Signed,

Solicitors, etc. *Set in Italic*

To the Board of Transport Commissioners, and

To the above named Applicant (or Respondent, as the  
case may be).

## INDEX TO THE RAILWAY ACT

R.S.C. 1952, c. 234

*(References are to sections.)*

### **abandonment**

of operation, 168

### **accidents**

investigation into, 289

notice of, sent to Board, 288, 419

form of, 288 (3)

information privileged, 288 (3)

returns of, 388, 389, 390

speed at level crossing, 312 (2)

### **accommodation for traffic**

action in default of, 315 (7)

at stations and junctions, 191, 315 (1)

Board may order, 315 (3)

negligence, condition against, 315 (7)

private sidings and branch railways, 315 (2)

suitable, definition of, 315 (2)

### **accounts**

of company, annual, 128

### **action**

limitation of time for bringing, 398

### **administration (management)**

by-laws respecting, 293 (h)

### **administrators**

certificate of proprietorship of share, 85, 86

power to convey interest in lands, 208-211

### **affidavit**

evidence by, 64

### **agents' book**

to be kept in office of

the Secretary of the Board, 56 (3)

### **agreements**

between companies

amalgamation, 153, 154, 155

discriminating, 319 (3)

**agreements—continued.**

- joint tariff, 341
- lease of railway, 153, 155 (1)
- pooling, 318
- running powers, 156 (2)
- sale of railway, 153, 155 (1)
- tolls, division and apportionment, 156 (2)
- traffic, 156 (1)
- compensation of owner of land, 216
- jurisdiction of Board respecting, 35
- land, purchase of, 211, 213
- particulars of, 391 (1) (k)

**aliens**

- directors of company, 115 (3)
- eligible to office, 97
- stockholders, 97
- voting by, 97

**alteration of railway, 173 (3), 181, 182**

- changes forbidden, 182
- information as to, 173 (4)
- plan
  - deposit, 181 (2)
  - exemption from submitting, 181 (4)
- sanction by Board, 173, 181, 182

**amalgamation**

- agreement for, 153
- effect of, 154, 155

**amendment of**

- Orders, 52
- proceedings, 61
- plans, 177

**animals. See cattle****annual returns**

- according to forms and classifications  
required by the Board, 384

**appeals**

- to the Governor in Council, 53 (1)
- to the Supreme Court of Canada, 53 (2)

**appliances. See equipment**



**application of Act**

- all persons, railway companies and railways, 5
- branch lines, 170 (6), 187
- foreign companies, 6
- government railways, 5
- limitation of, by special Act, 3, 4
- provincial railway declared for general advantage, 7
- provincial railway connecting with Dominion railway, 8
- tolls, tariffs and traffic, 363, 364

**applications**

- to the Board, 33
- complaints, 19 (2)
- for making a Board's order
  - a rule of court, 50
- notice of, 58

**approach to crossing.** See also **level crossings**

- fence to be maintained at, 269 (2)
- inclination of ascent and descent, 269 (1)

**arbitrator.** See **lands, expropriation****arrest**

- by railway constable, 458 (1)

**assets**

- return of, 391 (1)

**Assistant Chief Commissioner**

- appointment, 10 (1)
- powers, 10 (8), 12 (2)
- qualifications, 10 (6)
- salary, 26 (1)
- tenure of office, 9 (3), (4), 10 (7)

**badges**

- train and station employees, 358
- workmen on telegraph and telephone lines, 378 (1) (i)

**baggage**

- checking of, 357, 441
- excess, toll for, 357 (2)
- free carriage of, 350, 351

**baggage car**

- injury to passenger in, 397

**ballast.** See **materials**

**beach**

public, which may be taken, 193

**bell on locomotive**

ringing of, at level crossing, 311, 426, 427

weight of, 304

**bill of exchange**

borrowing upon, 147

**bill of lading**

terms and conditions on, 353

**blackboard**

notice of time of arrival of  
trains written on, 306

**board of directors.** See **directors****Board.** See also **Board of Transport Commissioners**

definition of, 2 (1)

**Board of Transport Commissioners, 9-72****commissioners**

absence of, 13

approval of works authorized by Parliament, 40  
Assistant Chief Commissioner. See **Assistant  
Chief Commissioner**

authority from Chief Commissioner, 11 (4)  
Chief Commissioner. See **Chief Commissioner**  
Deputy Chief Commissioner. See **Deputy Chief  
Commissioner**

disqualification of, 13, 14

duties, whole time to be devoted to, 16

inability of, 13

inconsistent offices, holding of, 16

pro hac vice, 13

quorum, 12 (1)

reappointment of, 9 (5)

residence of, 15

salary, 26

tenure of office, 9 (3), (4)

travelling expenses, 29

vacancy, 12 (3)

constitution of, 9 (1)

correspondence with, free of postage, 30

costs of proceedings before, 62

counsel, employment of, before Board, 43, 53 (6)

court of record, 9 (2)

**Board of Transport Commissioners—continued.**

- employees, appointment of, 25
- experts to advise, 21
- evidence before, 33, 63-69
- franking privilege, 30
- free transportation of, 351
- Grand Trunk Pacific Railway, ascertainment of net earnings, 464
- inquiry
  - inspection and evidence, 71
  - ordered by Board, 70 (1)
  - ordered by Minister, 70 (2)
- jurisdiction, 33, 35
  - appeal to Supreme Court on question of, 53 (2-8)
  - stated case upon question of, 44
- meetings. See sittings
- name of, 9 (1)
- notices
  - of application to, or hearing by, Board, 58, 59
  - service of, 56
    - duty of company thereupon, 57
  - signing of, 55
  - under Lord's Day Act, 59
  - urgency, action without notice in case of, 60
- offices, 17
- orders
  - appeal to Supreme Court, 53 (2-8)
  - certified copies of, 23 (3)
  - contingent, 46 (1)
  - enforcement of, 33
  - ex parte, 48
  - extension of time for obeying, 41
  - interim, 46 (2)
  - jurisdiction to make, presumed, 49
  - power to make, 34
  - publication, 51
  - record of, 23
  - rehearing, 60 (2)
  - relief by, 47
  - repeal of, 34 (2)
  - review of
    - by Board, 52
    - by Governor in Council, 53 (1)
  - rules of court, orders made, 50
  - signing and filing of, 23 (1) (d)
- penalties, imposition of, by, 34 (3), (4)

**Board of Transport Commissioners—continued.**

## powers

- acting upon its own motion, 36
- exercise of, from time to time, 37
- of former Railway Committee, 32
- of superior court, 33 (3), 63 (1)

## proceedings of, amendments to, 61

## question of fact

- finding of Board conclusive, 45 (3)
- judgments of other courts not binding on Board, 45 (1)
- pending suits do not affect jurisdiction of Board, 45 (2)

## question of law

- appeal to Supreme Court on, 53 (2)
- stated case for Supreme Court, 44

## reference to Board by Governor in Council, 38

regulations. See **orders**

## report, annual, 31

## rules of practice, 54

**Secretary**

- acting secretary, 24
- appointment of, 22
- duties of, 23
- franking privilege, 30
- salary, 26 (3)
- tenure of office, 22
- travelling expenses, 29

## sittings

- anywhere in Canada, 18
- conduct of, 19
- rules respecting, 20

## special services, pay for, 28

## staff, 25

- free transportation of, 351
- pay of, 27, 29
- travelling expenses of, 29

## transportation of, on railways, 351

## travelling expenses of, 29

## vacancies on, 12 (3)

## witnesses, 33 (3), 63-66

## works ordered by Board, cost of, 39

**bondholder**

- assent of, to scheme of arrangement for insolvent company, 158

## a mortgagee, 142 (2)

## right of, on company's default, 143, 144, 145



**bonds, mortgages, and borrowing powers.** See also **branch lines**

- bill of exchange, borrowing on, 147
- default of company, 143
- extent of borrowing power, 134 (5)
- interest on, 134 (3)
- issue of bonds, debentures, debenture stock and securities, 134, 135, 136
- mortgage to secure securities, 137
  - default by company on, 143
  - deposit of, with Secretary of State, 139, 141
  - other rights not affected, 145
  - priority of, 142
  - property excepted from, 138
  - registration necessary before voting, 144 (1)
  - registration by company on demand, 144 (2)
- notes and bills
  - borrowing upon, 147 (1)
  - not to be payable to bearer, 147 (4)
  - presumed to be properly made, 147 (2)
  - seal of company unnecessary, 147 (3)
- liability of officers under, 147 (5)
- overdraft, borrowing by, 147 (1)
- payment of, time and place, 134 (3)
- pledge of, by directors, 134 (4), 135
- promissory note, borrowing on, 147 (1)
- Provincial Act, power under, 136
- purchase of bonds, securities, etc., of another railway company prohibited, 149, 401
- ranking of, 137 (1), 142
- returns of, 391 (1) (f)
- sale of, by directors, 134 (4)
- secured by mortgage on company's property, 137
- signature of, 134 (2)
- transferable by delivery if payable to bearer, 146 (1)
- transferable by writing if registered, 146 (2)
- warehouse receipt, borrowing on, 147 (1)

**bonds of another railway**

- holding of, prohibited, 149

**bonuses**

- granted to company, 164 (1) (b)
- returns of, 391 (1) (e)

**book of reference.** See **location of line****borrowing powers.** See **bonds**

**brakes**

efficient apparatus to be used, 301, 302, 421 (a)

**branch lines**

application of provisions to, 170 (6), 187  
expenditure of 15% on bond issue on construction, 163  
extension of, prohibited, 186 (3)  
power to build, 164 (1) (h), 183  
application to Board, 184 (b)  
authorization of Board, 185  
registration of, 186 (2)  
inconsistent powers to lapse, 186 (4)  
plans, etc., 184, 186  
registration of, 184, 186 (2)  
"railway" includes, 2 (21)  
removal prohibited without consent of Board, 190, 405  
required for industry within 6 miles of railway, 188  
required for obtaining materials for railway, 205  
use of, by another industry, 189

**bridge.** See also **foot bridge**

draw, stopping of train at, 308, 424, 425  
kind of, required by Governor in Council, 252  
headway over cars, 253, 408  
under railway bridge, 266  
international, 42  
length over 18 feet, leave required from Board, 254  
over highway, 254, 267  
over navigable water  
draw or swing bridge, 250 (2)  
flooring of, 249  
order of Board for, 251  
plans to be approved, 251  
spans, headway and waterway, 250 (1)  
stopping of trains at, 308, 424, 425  
penalties relating to construction, 407, 408, 409  
passageway for public on, 254 (6)  
power to construct, 164 (1) (k)  
swing, stopping of train at, 308, 424, 425  
tolls, for traffic over, 364, 42

**bridge subsidy, 468****bridge tender.** See also **employees**

intoxication while on duty, 430

**British subjects**

majority of directors to be, 115 (3)

**buildings**

damages to, 450 (a)  
 inviolation of Act, 409  
 power to erect, 164 (1) (g)  
 trespassing in, 450 (e)

**bulk goods**

definition, 361 (3)

**by-law**

includes a resolution, 2 (2)

**by-laws. See also Quebec Province**

**by company**

employees, employment and conduct of, 293 (g),  
 298  
 form of, 295  
 loading of cars, 293 (c)  
 management of railway, 293 (h)  
 penalty for violation, 294  
 smoking and nuisances, 293 (e)  
 speed of trains, 293 (a)  
 tariff of tolls, 326  
 time tables, 293 (b)  
 traffic, receipt and delivery of, 293 (d)  
 travel on railway, 293 (f)  
 violation of, 294, 420

**by directors**

election or appointment of officers as vice-presi-  
 dents, 124 (2)  
 employees  
     appointments, duties and pay, 124 (1) (b)  
     retirement of, 124 (1) (c)  
 form of, 295  
 management of stock and business, 124 (1) (a)  
 tariff of tolls, 326

evidence of, 300

form of, 295

publication of, 298

return of, to Board, 388 (4)

sanction of, by Governor in Council, 296

effect of, 297

violation of, penalty for, 294, 420

danger attending, 299

**cables.** See **marine electric telegraphs**

**calls on shares**

- action for, 103, 104
- amount of, 99
- failure to pay, 103
- forfeiture of shares for non-payment of, 89
- interest on overdue, 102
- interval between, 99 (4)
- liability of shareholder for, 101
- notice of, 99, 100
- number of, 99

**Canada Gazette**

- publication of Board's regulations in, 51

**canal**

- bridges over
  - flooring of, 249
  - opening and closing of draw, 250 (2)
  - spans, etc., of, 250 (1)
- crossing of, by railway, 164 (1) (k)
- obstruction of navigation prohibited, 248
- work affecting, authorization for, 250

**capital.** See also **shares; stock**

- amount to be stated in Special Act, 77
- application of, 77 (2)
- dividend must not impair, 131 (1) (a)
- expenditure of 15% on survey, right of way and construction, 163
- increase of, 79

**car load**

- by-laws regulating, 293 (c)

**carriage of traffic**

- contracts limiting liability, 353
- free, or at reduced rates, 350, 351, 352
- special rates for specific shipments, 349

**cars.** See also **trains**

- box freight, equipment of, 301 (5), 395 (b), 421 (b)
- passenger injured in, 397
- position of, in train, 307, 423
- loading and unloading of, 293 (c)
- opening or injuring, 442
- trespassing on, 450 (e)



**cattle**

- allowing to go on railway land, 393, 413
- at large on highway, near railway, 281, 393 (2)
  - impounding of, 281 (2)
- killed or injured by train, 393 (2)
- rest, water and feed for, when being conveyed. See **Criminal Code**

**cattle guards**

- at level crossings, 277

**chairman**

- casting vote in case of tie, 121
- election of, by directors in absence of president or vice-president, 119 (4)
- vice-president to act as, in absence of president, 119 (3)

**changes (in railway), 181**

**charge**

- definition of, 2 (3)

**Chief Commissioner**

- appointment, 10 (1)
- authority to other commissioners, 11 (4)
- presiding officer, 12 (2)
- qualifications, 10 (2)
- question of law to be decided by, 12 (2)
- salary, 26
- tenure of office, 9 (3), (4), 10 (4)

**church lands**

- power of trustees to sell, 210 (c)

**city, town or village**

- speed of trains in, 290 (1) (a), 312
- steam whistle in, 290 (1) (b), 311 (2)
- train moving reversely in, 313, 428 (1) (g)

**classification of freight. See freight**

**clearances**

- headway over cars, 253
- headway over rails, 253
- of wires above highway, 378 (1)

**clerk of the peace**

- definition of, 2 (38)

**commencement of work**

requirements before work commenced, 169

**commercial travellers**

special rates for tickets to, 350 (1) (b)

**commission.** See **Board of Transport Commissioners****commutation tickets**

the granting and issuing of, 350 (3)

**companies (railway).** See **railway companies****company**

definition of, 2 (4), 380

incorporation of. See **incorporation**

**compensation**

for damages caused by company, 166, 258 (1)

for lands taken, 192, 195, 196 (3), 200, 204 (4), 206,  
216

snow fences, 206

**competitive points**

declared by Board, 317 (6)

**competitive tariffs.** See also **tariffs (freight)**

definition of, 331 (4), 334

filing and publication of, 333 (1), (4), (5)

**completion of railway**

time limited for, 163

**concurrence.** See **tariffs (joint)****conditional sale**

contract evidencing sale of rolling stock deposited with  
Secretary of State, 148

**conductor**

intoxication while on duty, 430

communication with engine driver, 301 (1) (a), 395  
(a), 421 (a)

to notify Board of accidents, 288, 419 (2)

badge to be worn by, 358

**connecting lines.** See also **through traffic**

facilities for traffic between, 256, 315 (5), 316

junction with other railways, 164 (1) (e)

provincial with Dominion, 8

**constable, railway**

- appointment, 456
- dismissal, 459
- neglect of duty, 449
- powers, 457, 458
- record of appointment and dismissal, 460, 461
  - as evidence, 462

**construction of railway**

- adjoining lands, use of, during, 204
- conditions precedent to, 169
- expenditure for survey, right of way and construction, 163
- expropriation of material for, 205
- health of workmen. See **Public Works Health Act**, R.S.C. 1952, c. 229
- matters incidental to, 164, 247-278
- powers for, general, 164 (1) (f)
- time for, limitation of, 163
- wages of employees on subsidized line, 247, 292

**continuous route.** See **through traffic, water**

**contracts.** See also **agreements**

- of express companies, 370
- limiting liability, 353
- damages for breach of duty not subject to special limitation, 392
- rolling stock, 148

**corporations**

- limited power to sell lands, 210

**cost**

- apportionment of cost of protection, 262, 263

**costs**

- appeal from Board to Supreme Court, 53
- Board, in proceedings before, 62
- definition of, 2 (5)
- expropriation proceedings, 221
- of arbitration, 226
- working expenditure includes certain costs, 2 (36)

**counsel**

- Board may be heard by, on appeals to Supreme Court, 53 (6)
- in proceedings of public interest, 43

**county**

definition of, 2 (6)

**coupling of cars**

Board may make orders respecting, 290 (1) (d)  
modern appliances for, to be used, 301 (1) (c), 302,  
395 (a), 421 (a)

**court**

Board is a court of record, 9 (2)  
definition of, 2 (7)

**creditors. See insolvent company****Criminal Code R.S.C. 1927 (offences re railways)**

breach of contract by railway, Criminal Code,  
endangering persons on railway, Criminal Code,  
endangering property by injury to railway, Criminal  
Code,  
forging tickets of railway, Criminal Code,  
gaming on railway, Criminal Code,  
injuring packages in custody of railway, Criminal Code,  
injury to telegraph, Criminal Code,  
interference with signals on railway, Criminal Code,  
mischief to railway, Criminal Code,  
obtaining passage on railway by false ticket, Criminal  
Code,  
obstructing construction or traffic of railway, Criminal  
Code,  
search of railway premises by peace officer, Criminal  
Code,  
stealing on railway, Criminal Code,  
stealing railway tickets, Criminal Code,  
transportation of cattle by railway, Criminal Code,

**crossing other railways**

Government railway, R.S.C. 1952, c. 136, s. 5 (2)  
provincial crossing Dominion railway, 8  
company's power of, 164 (1) (e)

**crossings and junctions. See also highway crossings; level crossings**

accommodation at junctions, 315 (1)  
Board, power of, as to, 255, 256  
compensation for land taken, 255 (3) (e)  
definition of "crossing" for Railway Grade Crossing  
fund, 265 (4)  
farm crossings, 275, 276



**crossings & junctions**—continued.

- leave of Board required for, 255
- operation of trains over, 257
- safety appliances at, 257
- signals to be given at, 309, 310

**Crown lands.** See also **lands**

- appropriation of, with consent of Governor in Council, 192
- disposal of land acquired as subsidy, etc., 150
- entry on, 164 (1) (a), 284 (4)
- extent which may be taken, 193
- Indian lands, 195
- naval and military lands, 194
- public beach, 193
- sale of land taken, prohibited, 192 (3)
- snow fences on, 206

**curators**

- power to convey interest in lands to company, 208-211

**customs duty**

- on goods carried over continuous route, 438

**damages**

- action for, limitation of, 398
- animals on railway, 393
- breach of duty under Act, 392
- compensation for, 166
- defective equipment, 395
- demurrage, 315 (8)
- fires started by locomotives, 394
- in exercise of company's powers, 166
- on baggage of freight car, 397
- on platform of car, 397
- signals at crossing, failure to give, 426 (2)
- snow fences, land damages by erection of, 206
- to freight, 442
- tolls, infraction of order respecting, 396
- triple, for infraction of orders respecting tolls, 396
- wires and poles, 378 (1), (g), (h)

**dangerous goods**

- carriage of, 354, 355, 440

**dangerous railway**

- inspection of, by Board, 286 (1)
- notice forbidding trains on, 287, 418

**dangerous railway**—continued.

opening of, forbidden, 279 (5), 417

repairs to, may be ordered by Board, 162, 417

**debenture stock.** See **bonds****debentures.** See **bonds****debts.** See **Exchequer Court Act, R.S.C. 1952, c. 98, ss. 27-28****definition.** See **interpretation****demurrage**

Board may make regulations respecting, 315 (8)

**depot**

included in "railway," 2 (21)

**Deputy Chief Commissioner**

appointment of, 11 (1)

powers, 11 (2), (3)

**deviation of railway, 173 (3), 181, 182****directors**

accounts to be kept, 128

authority given by Board, in absence of president or vice-president, 126 (2)

British subjects, majority to be, 115 (3)

by-laws by. See **by-laws**

chairman elected by, 119 (4)

contracts by company with, forbidden, 115 (2), 123

disability of officers, and contractors and their sureties, 115 (2), 123

election of, 78 (1), 113, 118 (2)

mayor, etc., of municipality holding stock, 114

meetings of, 119, 120

number of, to be stated in Special Act, 113 (1)

officers appointed by, 125

offices may be established by, 74 (3)

power of director acting as president, 126 (2)

president elected by, 119

provisional. See **provisional directors**

qualification, 115

quorum of, 119

shareholders' control over, 122

term of office, 116

vacancies among, 117, 118

vice-presidents elected by, 119

votes of, 121

**discrimination**

- apportionment of tolls for land and water carriage, 324
- Board may determine, 320, 323, 324, 328 (5), (6), (7)
- burden of proof on company, 322
- forbidden with respect to
  - classes of persons, 322
  - grain, 328 (5), (7)
  - industry, 319 (3) (d)
  - localities, 317 (4), 319 (3) (d)
  - shippers, 317, 319
  - tolls, 317
- in public interest, 323
- penalty for, 396, 436
- tolls, 317

**ditches. See drainage****diversion**

- drain, during construction of railway, 164 (1) (n), 165
- electric wires, 164 (1) (n), (o), 165
- highway, 164 (1) (l), 165
- pipes, gas and water, 164 (1) (n), 165
- railway, 181, 182, 183
- watercourse, 164 (1) (l), 165

**dividends**

- arrears on calls deducted from, 133
- capital not to be impaired by, 131
- declaration of, by directors, 129
- equalization of, by reserve fund, 130 (1)
- net profits, dividends out of, 129
- rate of, 129
- shares in arrears, dividend not to be paid, 131 (c)

**divisional point**

- closing of, 182
- removal of, 182

**documents. See evidence****drainage**

- along railway, 164 (1) (k), (m), (n), 165, 271
- Board may order, 272
- diversion of drain during construction of railway,
  - 164 (1) (n)
- inspection for, 272
- insufficiency of, 272
- provincial drainage laws, 273
- restoration of drain after construction, 165

**draw bars**

height of, 301 (6), 302, 395 (c), 421 (c)

**draw bridge.** See **bridge****drunkenness.** See **intoxication****dynamite.** See **explosives****earnings**

returns of gross earnings, 391 (1)

**easement**

grant of, by company, to owners of lands affected,  
216 (2), 225

**ecclesiastical lands**

sale of, to company, 210 (b)

**electric railway crossing**

precautions at, 309 (2), 310, 428 (2)

**electricity**

acquisition of, 373

construction of lines and plant for, 164 (1) (o)

diversion of lines, for construction of railway, 164 (1)  
(n)

lines for, 377, 378

motive power for railway, 164 (1) (f)

municipality, consent of, 375, 378 (10)

transmission of, 373

**elevators**

land for, extent which may be taken, 202 (b)

power to construct, 164 (1) (g)

**employees.** See also **officers****of Board**

appointment of, under Civil Service Act, 25

payment of, 27, 29

**of company**

accidents to, notice of, 288

appointment of, by by-law, 124 (b)

compensation when station or divisional point  
moved, 182

conduct of, by-laws regulating, 293 (g), 298 (3)

dismissal of, by order of Board, 289 (2)

employment of, by-laws regulating, 124 (1) (b),  
293 (g)



**employees—continued.**

- in charge of train, to notify Board of accidents, 288, 419 (2)
- intoxicants, sale of, to employee on duty, 431
- intoxicated while on duty, 431
- protection of, 290 (g)
- obstruction of officer or agent on duty, 450 (d)
- retirement of, by-law for, 124 (c)
- suspension of, by order of Board, 289 (2)

**engine. See locomotive****engineer. See inspecting engineer; locomotive engineer****entry on property**

- by Board, 71
- for constructing or repairing railway, etc., 204
- to make surveys, 164 (1) (a)

**equipment**

- of railway, 315, 320 (3)
  - inspection of, 286
  - renewal of, ordered, 286
  - uniformity of, 291
- of trains
  - bell on locomotive, 304
  - Board, power of, 302
  - brakes, 301 (1) (b), 302
  - communication with engineer, 301 (1) (a), 302
  - couplers, 301 (1) (c), 302
  - draw bars, 301 (6), 302, 395 (c), 421 (c)
  - freight cars, 301 (5), 302
  - limit of time for obtaining, 301 (7)
  - oil cups, etc., on locomotive, 303
  - penalty for improper equipment, 395, 421
  - whistle on locomotive, 304

**evidence**

- affidavits, 64
- before arbitrator, 227-229
- before Board, 33, 63-69, 391 (2)
- by-laws of company, 300
- commission for taking, 63 (2)
- constables, record of appointment, 462
- discrimination, unjust, burden of proof, 322
- documents
  - certified by secretary, 69
  - issued by company, 67

**evidence**—continued.

## documents

production of, 66

signed by Minister, Chief Commissioner, Secretary  
or inspecting engineer, 68

fees for giving, 65

forfeiture of share, 93

incriminating, 66

inspecting engineer, authority of, 72 (7)

minutes of meetings, 127

mortgage securing bonds, 141

notice of calls in Canada Gazette, 100

plan of railway, 179 (5)

stock certificate prima facie evidence of title, 85

tariff filed by company, binding on it, 348

title to share, 85, 93

## witnesses

on arbitration, 227, 228 (2)

attendance of, before Board, 33 (3), 63-66, 391 (2)

before Minister, 65

fees of, 65

incriminating evidence by, 66

**Exchequer Court**

definition of, 2 (8)

## jurisdiction

as to insolvent company. See **insolvent company**.

as to railway debts. See R.S.C. 1952, c. 98, ss. 27-28

**excursion tickets**

reduced rates for, 350 (1) (b)

**executors**

certificate of proprietorship of share, 85, 86

power to convey interest in lands to company, 208-211

**expenditure**. See also **working expenditure**

returns of, 391 (1)

**expenses**

“working expenditure” includes certain expenses, 2 (37)

**experts**

to advise Board, 21

**explosives**

carriage by company, 354, 355, 440

mark on, 354 (2), 439

notice to station agent, 354 (2), 439

opening of package suspected to contain 355 (2)

passengers may not carry, 354 (1), 439

**express**

- carriage by
  - conditions limiting liability, 370
  - definition of, 369
  - filing of tariff before, 367, 443
  - regulation of, 370 (2)
- companies, equal facilities to, 319 (6)
- return, annual, 371, 388
- tolls
  - approval of, 365 (1)
  - definition of, 2 (9)
  - disallowance of, 365 (2)
  - tariff of, 366
    - filing of, 367, 368

**expropriation**

abandonment. See desistment

**arbitrator**

- award of
  - appeal from, 235
  - filing, sent to court for, 230
  - finality of, 223 (2)
  - informalities in, 233 (1)
  - interest from deposit of plan, 224 (3)
  - notice of, to parties, 230
- costs of arbitration, 226
- death or incapacity of, 232
- depositions, etc., sent to court, 230
- disqualification of, 234
- duties of, 224 (1)
- evidence before, 228
  - taking down of, 229
- expenses of, 226 (3)
- fee, not entitled to, 226 (3)
- inspection by, 226 (3)
- judge to be arbitrator, 222, 223
- may decide without examining witnesses, 227
- powers of, 228
- proceedings of, 227
- to proceed speedily, 231
- vacancy in office of, 232
- witnesses, powers as to, 227, 228 (2)

**compensation**

- application to judge to determine, 222
- claims to, 239, 240 (1)
  - order of court for payment of, 240 (2)
  - as to interest, 224 (3), 240 (3), (4)

**expropriation—continued.**

- costs of proceedings, 240 (5)
- date for purpose of valuation, 224 (2)
- determination of, 223 (2), 224
- increased value of remaining lands, 224 (1)
- mitigation of damage, offers in, 225
- payment into court, 236
  - notice of, 237
    - if land in Quebec, 238
- refusal to accept offer of, 222
- stands in place of land taken, 239

**desistment**

- evidence taken previous to, 221 (4)
- new notice, 221 (2)
- of notice and proceedings, 221 (1)

**notice of**

- deposit of plan to be given in newspapers, 216 (1)
- service by publication, 220
- to owner, etc., of land, 218, 219

**possession of lands, taking of, 218**

- judge's warrant for
  - in case of immediate necessity, 243
  - notice to owner and deposit, 244
  - costs of application, 245
  - in case of resistance, 242

**proceedings to be continued in one court, 246****surveyors' certificate, 219****extension of railway**

- expenditure of 15 per cent. of bond issue on construction, 163, 186 (3)

**false**

- billing, etc., by company or agent, 434
- by shipper, 435
- return by company, 447

**fare**

- attempt to avoid payment of, 450 (c)
- badge to be worn by person demanding, 358
- ejection for refusal to pay, 359
- recovery of, by suit, 360

**farm crossings**

- Board may order, 276
- cattle crossing must be in charge, 275 (2)
- construction of, by company, 275 (1)
- fences at, 277. See also **fences**



**farm crossings—continued.**

- gates at, erection of, 277
  - to be kept closed, 278, 413
- to be convenient, 275 (1)

**fences**

- approaches to bridges, 269 (2)
- cattle killed through defect in, 393
- in cities, towns and villages, 312 (a)
- damage to, 450 (a)
- destruction of, 450 (a)
- height, etc., of, 277
- power to make, 164 (1) (k)
- removal unlawfully, 413 (b)
- snow, 206

**fires**

- Board may make orders for protection against, 284,  
290 (1) (f)
- combustible matter, removal of, 283
- devices for prevention of, 290 (1) (f)
- insurable interest in property along railway, 394
- locomotive, liability for fire caused by, 394

**foot bridge**

- erection of, over highway, 264

**foreign carriers**

- tariffs for trough traffic, 343, 344, 345

**fractions in making rates**

- of five cents, 330 (3)
- of a mile, 330 (1)
- of five pounds, 330 (2)

**franking privilege**

- correspondence to or from Board or Secretary at  
Ottawa is free of postage, 30

**free transportation**

- when allowed, 350, 352
  - obligatory, 351
- prohibited, 352, 433

**freight. See also freight traffic**

- accommodation, 315
- cars
  - allotment of, 320 (3)

**freight—continued.****cars**

- equipment of, with ladders, etc., 301 (5), 395 (b)
- passenger injured on, 397
- position of, in train, 307, 423

**classification**

- control of, by Board, 325
- inspection by public, 347
- United States, 325 (4)

**damages to, 442****rates. See tolls****receipt and delivery of traffic, 293 (d)****tariffs. See tariffs****transportation of, 164 (1) (i)****freight traffic. See also freight**

- notice of application to Board under Lord's Day Act, 59
- on unopened railway, leave for, 279 (7)
- tariffs. See tariffs

**French language. See Quebec Province****frogs**

- packing spaces at, 285

**fuel**

- Board may specify kind to be used, 290 (1) (k)

**gas-pipes**

- diversion of, for construction purposes, 164 (1) (n), 165

**gates**

- at far crossings, erection of, 277
  - to be kept closed, 278, 413
- cattle killed owing to open, 393
- damage to, 450 (a)
- destruction of, 450 (a)
- landowner to keep closed, 278
- opening of, 393

**gauge. See standard gauge****general advantage of Canada, work for**

- application of Railway Act to, 6 (c), 7
  - exception, 6 (2)
- connections and crossings, 8
- provincial Sunday observance law, 463
- railways exempt, 6 (2)
- what railways are, 6 (c)

**glebe lands**

power of rectors to sell, in Ontario, 210 (a)

**goods**

definition of, 2 (10)

perishable, sale of, for tolls, 361 (2)

seizure for tolls, 361 (1)

transportation of, 164 (1) (i)

unclaimed for 12 months may be sold, 362

**Government**

construction of telegraph and telephone lines by, 383

use of existing telegraph and telephone lines, 382

**Government railways.** See also **Government Railway Act, R.S.C. 1952 c. 136**

extent to which Act applies, 5

**Governor in Council**

approval or consent of

amalgamation agreement, 153

increase of capital stock, 79 (1)

issue or disposal of securities of provincial railway,  
136

navigable waters, work in, 251

public lands, taking of

Crown lands, 192

Indian lands, 195

naval and military lands, 194

traffic agreement, 156 (2)

order of Board, review of, 53 (1)

powers as to decisions of Railway Committee, 467

reference by, to Board, for report, 38

return to Board, examination of, 391 (4)

review of order of Board, 53 (1)

stated case by Board at request of, 44 (1)

**grade crossings.** See **level crossings****grain**

discrimination respecting, 328 (5), (6), (7)

facilities for movement of, from west, 321

**Grand Trunk Pacific Railway**

ascertainment of net earnings, 464

**grass**

to be removed, 283

**grates**

use of, on engines, to prevent fires, 290 (1) (f)

**gravel.** See **materials****guardians**

power to convey interest in lands to company, 208-211

**gunpowder.** See **explosives****handgrips**

on freight cars, 301 (5), 421 (b)

**head office**

change of, by by-law, 74 (1)

registered by Secretary of Board, 74 (2)

designation of, in Special Act, 74 (1)

meetings of shareholders at, 106

**headway**

of bridges over highway, 266

navigable waters, 250

over cars, 253, 408

in tunnels, 253, 408

**highway.** See also **highway crossings; level crossings**

altering level of, 164 (1) (l)

bridge over, 254, 267

consent of municipality before constructing railways,  
258 (1)

erecting poles, etc., 378 (2), (8)

construction of railway over, 259

crossing of, by railway, 164 (1) (k), 259, 260

definition of, 2 (11)

diversion of, for construction of railway, 164 (1) (l)

obstruction of, 258 (2), 314, 410

restoration of, after completion of work, 165, 258 (2)

taking part of, 259 (3)

train moving reversely on, in cities, etc., 313

width under overhead crossing, 266

wires and poles on, 378

**highway crossings.** See also **level crossings**

application for leave to construct railway, 259

approaches to, 269

approval of, by Board, 258, 410

Board, powers of, 259 (2)

cost of, 262, 263

foot bridges at, 416



**highway crossings**—continued.

- grant for protection at, 265
- obstruction of view at, 261
  - by works, 258 (2)
- plans, etc., to be submitted to Board, 259 (1), (5), (6)
- protection at, 259 (2)
- rights saved, 258 (3)
- supervision of work, 259 (4)
- width of highway at, 266

**horse.** See **cattle**

**House of Commons**

- members, and their baggage, to have free transportation on any trains, 351

**immigrants**

- reduced rates to, 350 (1) (b)

**incorporation**

- of company by Special Act, 73
- of purchaser of railway, 152

**Indian lands**

- appropriation with consent of Governor in Council, 195

**industrial spur line.** See **spur line**

**industry**

- discrimination forbidden against, 319 (3) (d)
- branch or spur line to, 188 (1), 189
  - use by another industry, 189
- removal prohibited without consent of Board, 190  
405

**inquiries into complaints**

- inspection and evidence, 71
- ordered by Board, 70 (1)
  - by Minister, 70 (2)

**insolvent company**

- scheme of arrangement
  - assent of bondholders, shareholders, etc., 158
    - when not required, 158 (3)
  - confirmation and enrolment of, 159
  - copies of, for sale to public, 161, 402
  - Exchequer Court, powers respecting, 157 (4), (6)  
159, 160. See also R.S.C. 1952 c. 98, ss.  
27-28

**insolvent company**—continued.

- declaration of insolvency to accompany, 157 (3)
- filing of, in Exchequer Court, 157
- notice of, to be published, 157 (5)
- rules of practice for, 160
- stay of proceedings against company, 157 (4), (6)
- Winding-up Act not applicable to. See R.S.C. 1952, c. 296, s. 7

**inspecting engineer**

- appointment of, 72 (1)
- authority of, 72 (7)
- dangerous railway, report on, by, 286, 287
- definition of, 2 (12)
- drainage, inspection for, 72 (2), 272
- duties of, 72 (2)
- free transportation of, 72 (5)
- information for, from company, 72 (4)
- inspection by, before opening of railway, 279 (3-7)
- obstruction of, 400
- powers of, 72 (3)
- refusal to obey orders of, 418
- report by, on dangerous railway, 286, 287
- telegraph lines, use of, by, 72 (5), (6), 400

**inspection of railway.** See also **inspecting engineer**

- before opening, 279 (3-7)
- out of repair, 286, 287
- company not relieved by, 398 (4)

**insurable interest**

- in property along railway, 394

**interchange of traffic**

- agreements for, 156 (1)
- facilities for, 316

**interest**

- on advance payments on stock, 94, 131
- bonds, 134 (3)
- compensation paid into court, 236, 240, 245
- overdue calls, 102
- not payable when call in arrear, 132

**interim order**

- by Board 46 (2), 48

**interlocking switch**

- at crossings, 257, 310
- swing and draw bridges, 308 (2)

**international boundary**

companies operating to, may exercise powers beyond,  
167

**international bridges**

definition, 42  
jurisdiction over tolls, 42

**interpretation**

of expressions used in Act, 2, 265 (4), 380 (1), (13),  
381 (1)

**intersecting lines. See connecting lines****intoxication**

of employees on duty, 430  
sale of intoxicants to employees on duty, 431

**irrigation**

construction of works for, 274

**Joint Stock Companies. See Companies Act.**

R.S.C. 1952, c. 53

**joint tariffs. See tariffs****judge**

appointment of constables, 456 (1)  
of arbitrators, 222  
definition of, 2 (13)

**judgment**

Board not bound by, on question of fact, 45 (1)

**junctions. See crossings and junctions; level crossings****justice of the peace**

appointment of constables by two justices, 456 (1)  
definition of "justice," 2 (14), (38)  
of "two justices," 2 (14)  
penalties, recovery of, before, 455 (2)

**labourers. See wages****ladders**

on box freight cars, 301 (5), 421 (b)

**lands**

adjoining railway, use of, during construction, 204  
agreement to sell, to company  
after deposit of plan, 216  
before deposit of plan, 213

**lands—continued.**

- application to owner for, after deposit of plan, 216 (1)
- arbitrators. See **expropriation**
- ballast, etc., right of way to, 205
- claims to, barred by adjudication to court 240 (1)
- compensation, agreement for, 216
  - disagreement, 217
- covered with water of a river or lake, 193
- Crown. See **Crown lands**
- definition of, 2 (15)
- disposal of, obtained as subsidy, etc., 150
  - when no longer required, 164 (1) (c)
- entry on
  - by Board, 33 (3)
  - by company for fire protection, 284 (3), (4)
  - to make survey, 164 (1) (a)
- expropriation. See **expropriation**
- extra, required by company, 203
  - certificate under former Act, 203 (8)
- fee simple interest only may be taken without consent or leave, 202
- grant of. See also sale of
  - to company, 164 (1) (b)
- holding of, 164 (1) (c)
- Indian. See **Crown lands**
- located line, lands along, 164 (1) (d)
- purchase money, disposal of, 212
- purchase of whole lot traversed, 207
- purchase of, necessary for railway, 164 (1) (c)
- rent of, when person cannot sell, 214, 215
- right of way
  - over land of another railway company, 196
  - land required for, 202 (a)
- sale of
  - obtained as a subsidy from Crown, 150
  - received as aid from any person, 151
  - when no longer necessary, 164 (1) (c), 207 (2)
  - to company by trustees, 208-211
- snow fences, erection of, on Crown or private lands, 206
- station, etc., land required for, 202 (b)
- taking and using of, 192-217
- taking of, without consent of owner
  - for right of way, 202 (a)
  - for stations, 202 (b)
  - notice to be served, 174, 218, 219
- time limit for acquiring, 174
- transfer of. See sale of



**lease**

- agreement for lease of railway, 153
- includes agreement for a lease, 2 (16)
- contract evidencing lease of rolling stock to be deposited with Secretary of State, 148
- particulars of, 391 (1) (k)
- returns of particulars of, 391 (1) (k)
- telegraph and telephone lines, 372 (2)

**legal expenses.** See also **costs; counsel**

- included in "working expenditure," 2 (37) (g)

**legislature**

- of any province, definition of, 2 (20)

**letters**

- to or from Board or Secretary at Ottawa are free of postage, 30

**letters patent**

- authorizing railway, included under "Special Act," 2 (28) (c)
- incorporation. See **Companies Act**, R.S.C. 1952, c. 53, s. 5

**level crossings.** See also **highway crossings**

- bell, ringing of, at, 311, 426, 427
- cattle guards at, 277
- electric car at, 309 (2), 310, 428 (2)
- foot bridges at, 264
- grant by Parliament for, 265 (5)
- height of rail above road at, 268
- live stock to be in charge of competent person, 275 (2)
- obstruction of traffic at, 314, 429
- Railway Grade Crossing Fund, 265
- safety appliances at, 257
- signals at, 257, 309, 426, 428
- signboards at, 270, 411
- speed in cities, etc., 312, 428 (1)
  - over level crossings, 312, 428 (1)
- stopping of trains at, 310, 428 (1)
- train moving reversely over, 313, 428 (1) (g)
- watchman at, 313 (1), 428 (2) (b)
- whistle, use of, at, 311, 426, 427

**liabilities**

- returns of, 391 (1)

**light**

lines for conveyance of. See **telegraph, etc.**

**limitation of actions**

as to time, 398

in the case of liability for fire, 394

**line, location of, 170-191.** See **location of line**

**liquor**

damaging packages containing, 442 (a)

drinking or wasting, 442 (b)

**loading of cars**

by-laws regulating, 293 (c)

**locality.** See **discrimination**

**location of line, 170-191**

approval of

by Board, 169, 170 (3), 173 (2)

filing of map and application, 170 (5)

changes in

by company with approval of Board, 173 (3), 181,  
182

Board may make or require, 170 (3)

map of proposed line, 170

approval of, by Board, 170 (3), (4)

changes in, by Board, 170 (3)

filing of, 170 (5)

plan, profile and book of reference

changes in, 173 (3), 181

certification of, 172 (2)

copies of, by registrar, 179, 404

deposit of, with Board, 169, 172, 175 (1), 178 (1),  
180, 403, 404

details of, 171

errors in, 176, 177

evidence of, 179 (5)

further plans, etc., if required by Board, 180

of completed railway, 178, 403

of section of railway, 171 (6)

Quebec requirements, 171 (7)

registration of, 169, 175 (2), 178 (2), 179, 404

sanction of, by Board, 169, 172, 173

scale of, 172 (1)

**locomotive**

appliances and precautions on, 290 (1) (f), 304, 421 (a)  
bell, weight of, 304  
fires started by, 290 (1) (f), 394  
nettings, screens, grates, etc., to prevent fires starting,  
290 (1) (f)  
oil cups, etc., on, 303  
rolling stock includes, 2 (25)  
steam whistle, 304

**locomotive engineer.** See also **employees**  
intoxication while on duty, 430

**long and short haul**

charges for, 317, 332

**Lord's Day.** See **Sunday**

**luggage.** See **baggage**

**management (administration)**

by-laws respecting, 293 (h)

**mail**

carriage of, 356

**mailable matter.** See **letters**

**map.** See **location of line**

**marine electric telegraphs**

application of Act to, 381

**materials**

required for railway, proceedings for obtaining, 205

**meetings.** See **Board of Transport Commissioners** (sitting); **directors**; **provisional directors**; **shareholders**

**members of Parliament**

members, and their baggage, free transportation, 351

**mile**

fractions of, in making rates, 330 (1)

**mileage tickets**

reduced rates for, 350 (1) (b)

**military forces and stores**

carriage of, 356

**military lands.** See **Crown lands.**

**mines and minerals**

- company not entitled to, unless conveyed, 198
- compensation to owner for, when affected, 200
- development of, 274
- examination of mines and working, 201, 406
- protection of, from railway, 197
- working of, near railway, 199

**Minister**

- definition of, 2 (17)
- documents signed by, as evidence, 68
- inquiry into complaints, 70 (2), 71
- operation of railway by individual authorized by, 152

**minutes of meetings of shareholders**

- absence of president, entry of, in minutes, 126 (3)
- evidence, 127
- increase of capital, entry of proceedings for, 79 (1) (b)

**mixed train**

- position of freight cars in, 307

**mortgages.** See also **bonds, etc.**

- deposit of with Secretary of State, 140
- evidence of, 141
- to secure bonds, etc., 137
- exception from operation of, 138
- powers under, 137 (2)
- registration of, not necessary, 140
- sale of railway under, 152 (1)

**motive power**

- steam, electric, atmospheric, or mechanical, 164 (1) (f)  
290 (1) (k)

**Municipality.** See also **telegraph, etc.**

- agreement violated by, Board may make order, 35
- agreement of, for Railway Grade Crossing Fund, 265
- reduced rates to, 350 (1) (a)
- representation of, on board of directors, 114
- stock, holding of, by municipality, 96

**name of company**

- stated in Special Act, 73

**national freight rates policy, 336**



**National Transcontinental Railway**

net earnings of Grand Trunk Pacific Railway, 464

**naval forces and stores**

carriage of, 356

**naval lands. See Crown lands****navigable waters**

bridges over

flooring of, 249

opening and closing of draw, 250 (2)

order of Board for, 251

plans to be approved, 251

spans, etc., of, 250 (1)

stopping of trains at, 308, 424, 425

crossing of, by railway, 164 (1) (k).

obstruction of, prohibited, 248

provincial railway and, 8

work in, authorization for, 251

**nettings**

use of, on engines, to prevent fires, 290 (1) (f)

**nitroglycerine. See explosives****notice**

of application to Board, 58

defacing, 450 (b)

given by secretary deemed to be by directors, 112

service of, 56

signature of, 55

**nuisances**

on trains or premises, by-laws respecting, 293 (e)

**obstruction**

of highway, 258 (2), 314, 410

of inspecting engineer, 400

of level crossing, 314, 429

of navigation, 248

of officer or agent of company, 450 (d)

on railway

endangering persons, see **Criminal Code**

property by injury, see **Criminal Code**

mischief, see **Criminal Code**

obstructing construction or traffic, see **Criminal Code**

**offences**

- against Acts or orders, 399, 451
- against by-laws and regulations, 294, 420
- breach of contract by railway, Criminal Code continuing, 452
- disobeying orders of Board, 34 (3), (4), 399, 403, 417, 432
- endangering persons on railway, Criminal Code
  - property by injury to railway, Criminal Code
- forging tickets, of, Criminal Code
- gaming on railway, Criminal Code
- injuring packages in custody of railway, Criminal Code
- injury to telegraph, Criminal Code
- interference with signals on railway, Criminal Code
- liability of company for offences of employees, 453
- mischiefs to railway, Criminal Code
- obstructing inspecting engineer, 400 (2)
- obstructing construction or traffic of railway, Criminal Code
- obtaining passage on railway by false ticket, Criminal Code
- opening or injuring packages, 442
- on railway, 457
- search of railway premises by peace officer, Criminal Code
- stealing on railway, Criminal Code
- stealing railway tickets, Criminal Code
- telegraph operators neglecting messages of engineer, 400 (1)
- transportation of cattle by railway, Criminal Code
- various, 450

**officers.** See also Board of Transport Commissioners (staff)

- appointment of, 124 (1) (b), 125
- by-laws affecting, 298 (2)
- cannot be directors, 115 (2)
- conduct, by-laws regulating, 293 (g)
- dismissal by order of Board, 289 (2)
- duties, by-laws respecting, 124 (b)
- employment of, by-laws regulating, 293 (g)
- obstruction of, in execution of duty, 450 (d)
- retirement of, by-laws respecting, 124 (1) (c)
- salaries, by-laws respecting, 124 (1) (b)
- security by, 125
- suspension by order of Board, 289 (2)

**offices**

- of Board, 17
- of company, 74
- of registrar of deeds, 2 (24)

**oil cups**

- appliances for oiling valves of locomotives, 303

**one and one-third rule, 337**

**opening for traffic**

- application to Board for leave, 279 (2)
- Board may order, 280
- freight traffic, leave to open for, 279 (7)
- inspection by engineer, 279 (3), (4), (5)
- order for, 279 (1), (6)
- without authority, 412

**operation of railway**

- abandonment, 168
- by-laws regulating, 293 (f), 420
- temporary, pending authority from Minister, 152 (8)
- uniform rules for, 291

**orders. See Board of Transport Commissioners**

**overdraft**

- borrowing by, 147

**overdue trains**

- notice of, 306

**owner**

- definition of, 2 (18)

**packing**

- at frogs, switches, etc. 285

**passage way**

- highway or footway may be required on bridge, 254 (6)

**passenger**

- accommodation for, at stations, 315
- baggage, of, 357
- dangerous goods, carriage of, by, 354
- injury to, on platform, or on baggage or freight car, 397
- refusing to pay fare, 359
- "traffic" includes, 2 (33)
- transportation of, 164 (1) (i)

- passenger car**
  - position of, in mixed train, 307
- passenger tariff.** See **tariffs**
- passenger trains**
  - equipment of, 301-304
  - position of passenger cars, 307
- passes.** See **free transportation**
- payment into court.** See **expropriation**
- penalty**
  - Board may impose, 34 (3), (4)
  - first charge on railway, 137 (1), 454
  - liability of company for, 453
  - recovery of, 455
- perishable goods**
  - sale of, for tolls, 361 (2)
- pipes.** See **gas-pipes; water pipes**
- plan**
  - crossing of highways, 259, 260
  - definition of, 2 (19)
  - plan, profile, etc. See also **location of line**
  - neglect to file, 403, 404
- platform of car**
  - riding on, 397
- pleadings**
  - in action for calls, 104
  - for damages, 398 (3)
- pledge of bonds, 134 (4), 135**
- poles.** See **telegraph, etc.**
- police.** See **constable**
- pooling**
  - of freights or tolls prohibited, 318
- possession of lands.** See **lands (expropriation)**
- possession of lands.** See **expropriation**
- postage.** See **letters**



**posting up**

- bylaws, 298
- regulations, orders, notices, etc., 57

**postponement of tariffs, 328 (2)****power.** See also **electricity, telegraph, etc.**

- electric power, development of, 274
- lines for conveyance of. See **telegraph, etc.**
- motive power. See **motive power**
- sale of, 379
- water power, development of, 274

**powers of Board.** See **Board of Transport Commissioners****powers of railway company**

- damage in exercise of, 166
- general, 164-167
- United States, exercise of powers in, 167

**practice and procedure**

- amending proceedings, 61
- applications, 33
- complaints, 19 (2)
- general jurisdiction and powers, 32-44
- inquiries, 70, 71
- notice and service, 55-60
- orders and decisions, 46-51
- prosecution, 455
- review and appeal, 52, 53
- rules, 54
- witnesses and evidence, 63-69

**preferential claims.** See also **priority of claims**

- penalties constitute a first charge on property, 454

**president**

- absence or illness of, 119 (3), 126
- election of, 119 (1)
- presides at meetings of directors, 119 (2)
- tenure of office, 119 (2)

**press**

- free carriage or reduced rates to members of, 350 (1)  
(c)

**priority of claims against company**

- 1st penalties, 137 (1), 142 (1), 454
- 2nd working expenditure, 137 (1), 142 (1),
- 3rd bonds and mortgage securities, 137 (1), 142 (1)

**private crossings.** See **farm crossings**

**private sidings**

accommodation for, 315 (2)

facilities for junction of, 319 (5)

**privilege**

as to information re accidents, 288

of returns, 390, 391

**procedure.** See **practice**

**profile of railway.** See **location of line; plan**

**promissory notes**

borrowing upon, 147

**property**

grant of, to company, 164 (1) (b)

purchase and sale of, 164 (1) (c)

**prosecution**

methods of, 455

**protection**

of employees, property and public, 290

**provincial authority**

respecting wires underground, 378 (6)

**provincial laws**

borrowing powers under, 136

drainage proceedings under, 273

Sunday observance, 463

**provincial legislature**

definition of, 2 (20)

**provincial railway**

application of Railway Act to, 8

connection or crossing 8, 256 (3)

**provisional directors**

allotment of stock by, 76

duration of office, 75 (5)

meeting of shareholders called by, 78

names of, in Special Act, 75 (1)

powers, 75 (3), (4)

quorum, 75 (2)

**proxy**

- form of, 110
- shareholders voting by, 110

**publication**

- of by-law for regulation of highway traffic, 298

**purchase money**

- company not responsible for application of, 212

**purchase of railway**

- by person without corporate powers, 152

**Quebec, Province of**

- French language and English to be used in, 298 (4)
  - overdue trains, notice of, 306 (3), 422
  - signboards at level crossings, 270, 411
  - time tables, 305 (2)
- notice of payment of compensation, 238
- special requirements in plan and book of reference, 171 (7)

**question of fact.** See Board of Transport Commissioners

**question of law.** See Board of Transport Commissioners

**railway.** See also subsidized railway

- definition of, 2 (21)
- purchase of, by person not having power to operate, 152

**Railway Act, 1888**

- includes amendments, 2 (22)

**Railway Committee of Privy Council**

- orders of
  - continued until repealed by Board, 465
  - Governor in Council's action as to, 467
  - made rules of court, may be rescinded by Board, 50 (4)
  - may be made rules of court, 466 (1)
  - respecting highway crossings, 428 (1) (d)
- replaced by Board of Transport Commissioners, 32

**Railway Companies, 73, 167**

- agreements for sale, lease and amalgamation, 153-155
- agreements for interchange of traffic and running rights, 156
- bonds, mortgages and borrowing powers, 134-147

**Railway Companies—continued**

- calls, 99-104
- capital, 77, 79
- contracts respecting rolling stocks, 148
- disposing of lands obtained as subsidy, etc., 150, 151
- dividends and interest, 129-133
- incorporation, 73
- insolvent companies, 157-161
- offices, 74
- powers, 163-167
- president and directors, 113-128
- provisional directors, 75
- purchase of railway securities, 149
- purchase of railway by person without corporate power to operate, 152
- sale of subsidized railways not kept in repair, 162
- shareholders' meetings, 78, 105-112
- shares, 77, 81-98

**Railway Grade Crossing Fund**

- application and apportionment, 265

**rate. See tolls**

- definition of, 2 (32)
- structure, 328 (5)

**rebate on tolls**

- prohibited, 436 (1) (a)
  - except to builder of branch line, 188 (3)

**receipts**

- returns of, 391 (1) (d)

**reduced rates**

- allowed for certain traffic, 350

**registrar**

- definition of, 2 (23)
- office of, 2 (24)

**registry**

- definition of, 2 (24)

**regulations. See also Board; by-laws, etc.**

- defacing, 450 (b)
- re dangerous goods, 354, 355
- re express, 365-371
- re limitation of liability, 353



**regulations—continued.**

- re operation of equipment, 290, 302
- re passenger tariffs, 339
- re reduced rates, 350
- re special rates, 349
- re tariffs, 326, 327, 333
- re telegraph and telephone tolls, 380
- re wires, 377

**rent of land**

- when party cannot sell, 214
- chargeable as working expenditure, 215

**repairs**

- adjoining land, use of, during repairs, 204
- Board may order, to railway and equipment, 162, 286
- neglecting to execute, 417
- operation prohibited until repairs made, 286, 287
- power of company to make, 164 (1) (p)

**representatives**

- power to convey to company, 208-211

**reserve fund**

- creation of, 130 (1)
- investment of, 130 (2)

**resolution. See by-law**

**returns. See statistics and returns**

**right of way**

- ballast required for, 205
- breadth of, 202
- combustible matter to be kept off, 283
- expenditure of capital on purchase of, 163
- joint use, by existing and by new company, 196 (4), (5)
- land required for, 202 (a)
- separate rights of way, when undesirable, 196 (4), (5)
- use of another company's, 196
- weeds to be kept off, 282, 283, 414

**river**

- diversion for construction of railway, 164 (1) (l), 165
- obstruction of navigation prohibited, 248

**roads**

- power to construct, 164 (1) (g)

**rolling stock**

buying of, 164 (1) (g)

condemned

by Board, 286 (3)

by inspecting engineer, 287

contracts respecting, to be deposited with Secretary of  
State, 148

definition of, 2 (25)

"traffic" includes, 2 (33)

"train" includes, 2 (34)

uniformity of, Board may provide for, 291

**rules.** See *by-laws, etc.*

**running rights**

agreements as to, 156

**safety**

at swing and draw bridges, 308

at crossings, 255 (3) (d), 257, 260, 261, 310

grant in aid of, 265 (6)

on highways, 260

of employees. See **employees**

Railway Grade Crossing Fund, 265

regulated by Commission, 284-287, 290, 302, 308

**salary.** See *wages*

**sale of land.** See *lands (sale of)*

**sale of railway**

agreements for sale, lease and amalgamation, 153

to person without corporate powers, 152

**scalping.** See *Passenger Tickets Act, R.S.C. 1952, c. 202,*  
*s. 10*

**scheme of arrangement.** See *insolvent company*

**school lands**

power of trustees to sell, 210 (c)

**screens**

use of, on engines to prevent fires, 290 (1) (f)

**scrip**

transfer by delivery is valid, except for purpose of  
voting, 81

**secretary**

- definition of, 2 (26)
- of Board. See **Board of Transport Commissioners**
- notices given by, 112
- copies of minutes certified by secretary to be evidence, 127

**securities.** See **bonds****Senate**

- members and their baggage to have free transportation on any trains, 351

**servant.** See **employees****service of notice**

- how effected, 56 (1)
- duty of company on being served, 57

**sewer.** See **drainage****shareholders**

- alien, rights of, 97
- approval of
  - amalgamation, 153
  - scheme of arrangement for insolvent company, 158
  - traffic agreements, 156
- control of directors by, 122
- liability of, for calls, 101
  - to creditors, 95
- meetings of
  - annual, 105 (1)
    - business at, 108 (1)
    - election of board of directors, 113
- meetings of
  - first, 78
  - held at head office, 106
  - minutes of, 127
  - notice of, 107, 112
  - special, 105 (2)
    - business at, 108
    - to increase capital, 79
  - voting at, 109, 113 (3)
    - majority to govern, 111
    - proxies, 110
- record of names and residences, 98

**shares.** See also **capital; stock**

- advance payments on, 94
- certificate as evidence of title, 85, 86
  - signatures on, 84
- forfeiture for non-payment of calls, 89
  - effect of, on liability, 90
  - payment of arrears before sale, 91 (4)
  - sale of forfeited shares, 91
  - treasurer's certificate of, 92, 93
- municipal subscriptions for, 96
- one hundred dollars each, 77 (1)
- payment on, beyond amount of call, 94
- purchase of, of another railway company, prohibited, 149, 401
- signatures on certificates, 84
- transfer of, 81, 82, 83
  - form of, 82 (1)
    - for paid-up shares, 82 (2)
  - registration of, 81
  - stock certificate, transfer without, 86
  - transmission otherwise than by transfer, 87
  - trusts in connection with, 88
  - unpaid shares, 83 (1)
  - whole share must be transferred 83 (2)

**shelter**

- for employees on duty, 290 (1) (e)

**sheriff**

- definition of, 2 (27), (38)

**shunting**

- obstruction of traffic at level crossings, 314

**sidings**

- included in "railway," 2 (21)
- inspection of, by inspecting engineer, 71 (2)
- private accommodation at, 315 (2)
- plans, profiles, etc., ordered by Board, 180
- yard accommodation, 202

**signalman.** See also **employees**

- intoxication while on duty, 430

**signals.** See also **level crossings**

- signal system at swing bridges, 308
- at level crossings, 310



**signboards**

at level crossings, 270, 411

**smoking**

by-laws regulating, 293 (e)

**snow fences**

erection of, on Crown or private lands, 206

**Special Act**

construction of, with Railway Act, 3

definition of, 2 (28), 380

modifying Railway Act, 4

overrides conflicting provisions in Railway Act, 3

orders by Board respecting matters in, 34 (1)

**special freight tariffs. See tariffs****special passenger tariffs. See tariffs****speed of trains**

by-laws of company regulating, 293 (a)

checking of, 301 (1) (b), 395 (a), 421 (a)

in cities, towns and villages, 290 (1) (a), 428 (1) (c)

limit of 10 miles an hour, 312 (1)

regulations of Board respecting, 290 (1) (a)

over level crossings, 312, 428

**spur line**

required for industry within 6 miles of railway, 188

obtaining materials for railway, 205

removal prohibited without consent of Board, 190, 405

use of, by another industry, 189

**standard freight tariff. See tariffs****standard gauge**

4 feet 8½ inches, 164 (2)

**stated case for Supreme Court**

on question of law or of jurisdiction of Board, 44

**station**

accommodation at, 191, 315 (1)

closing of, prohibited, without leave, 182

employees at, to wear badge, 358

joint use of, by several companies, 196

land for, expropriation of, 202 (b)

extent which may be taken, 202 (b)

**station—continued.**

- location of, 191
- notice at, of overdue trains, 306, 422
- “railway” includes, 2 (21)
- removal of, prohibited, without leave, 182
- telephone communication with, 376
- trespassing on, 450 (e)
- use of another company’s, 196

**station agent.** See also **employees**

- intoxication while on duty, 430

**statistics and returns**

## to Board

- annual, of accidents, 388
- attendance and production, 391 (2)
- periodical, by railway company, of accidents, 389
- privileged, 390
- procedure, 386
- publication, 391 (5)
- special, 388, 389, 391

## to Dominion Statistician

## annual

- accidents, 388 (3)
- capital, traffic and expenditure, 384
- by-laws, 388 (4)
- forms of, 384 (1), (2), 388 (5)
- monthly, if required by Board, 385
- period to cover, 384 (3), 388 (2)
- privileged, 390
- special, 388
- penalties for failure to make returns, 444, 445, 446
  - for making false returns, 447
  - for publishing information without leave, 448

**stenographer**

- arbitrator, evidence before, 229
- Board, appointment and payment, 25, 27, 29

**stock.** See also **capital; shares**

- allotment of, 76
- increase of, 79
- municipal subscription for, 96
- personal property, 80
- purchase by company of its own, prohibited, 149
- subscriptions for, 75 (3)
- returns of, 391 (1)
- unpaid, liability to creditors for amount unpaid, 95

**stream.** See **navigable waters; river**

**street.** See **highway**

**street crossings.** See **highway crossings**

**street railway**

- electric, crossing of, 309 (2), 310
- on highway, 258
- included under "railway," 2 (21)

**subsidized railway**

- must be kept in safe and efficient condition, 162 (1)
- sale of, when not kept in repair, 162 (4)
- stations to be as ordered by Board, 191 (4)
- wages of employees on 247, 292; R.S.C. 1952, c. 287, s. 4

**subsidy**

- power to receive, 164 (1) (b)
- transfer of, to another company, 150, 151
- returns of, 391 (1) (e)

**subway.** See **crossings; cost**

**suit.** See **action**

**Sunday**

- Lord's Day Act, R.S.C. 1952, c. 171, ss. 2 (d), 3, 11
- provincial law as to observance of, 463
- work on, application for permission to, 59
- notice to Department of Transport, 59

**superannuation**

- of officers and servants, by-law for, 124 (1) (c)

**Supreme Court**

- appeal to, on question of law or jurisdiction of Board, 53 (2-7)
- stated case on question of law or jurisdiction of Board, 44

**surety**

- for contractor with company may not be a director, 115 (2), 123

**survey**

- entry on lands to make, 164 (a)
- expenditure of capital on, 163
- suspension of tariffs, 328 (2)

**switchman.** See also **employees**

intoxication while on duty, 430

**taking of lands.** See **expropriation**

**tariffs**

amendment of, 328 (3)

consolidation of, 328 (4)

date of coming into force, 328 (2)

departure from, 437, 443

disallowance of, by Board, 328 (1)

filing of, general provisions, 326 (5), (6)

form, etc., of, 327

freight, four classes of, 331

class rate tariffs, 331 (1) (a)

commodity rate tariffs, 331 (1) (b)

competitive rate tariffs, 331 (1) (c)

filing of, 333, 334

special arrangements tariffs, 331 (1) (c), (5)

filing of, 333

**grains, discriminatory,** 328 (7)

inspection of, 326 (6)

issue of, 326

joint, 341

agreement between companies for, 341

apportionment of through rate, 342 (3)

concurrence in, 341

continuous carriage, 341, 343, 344, 345

by water, 341 (3)

companies' names to be shown, 341 (2)

customs duties in absence of, 438

disagreements as to; order of Board, 342

disallowance of, by Board, 346 (1)

filing and publication of, 346 (1), 347

foreign country

continuous carriage, 343, 344, 345

traffic from, into or through Canada, 344

traffic from Canada into or through, 343, 438

proportion of tolls received by each company,

346 (2)

**National freight rates policy,** 336 (1)

disallowances and substitution, 336 (3)

exceptions, 336 (4)

revision of tariffs, 336 (2)

**passenger, two classes of,** 338

special, 338 (1) (b)

filing, publication and approval of, 340

standard, 338 (1) (a)

filing and publication of, 339



**tariffs—continued**

- postponement of, 238 (2)
- powers of Board to fix rates, 328 (5)
- preparation and issue of, 326
- presumption as to legality of tolls, 348
- reissue of, 328 (4)
- special rates for specific shipments, 349
  - filing of, 349 (2)
- superseded, 329 (1)
- supplements to superseded tariffs, 329 (2)
- suspension of, 328 (2)
- Transcontinental competitive tariffs, 337

**telegraph operator.** See also **employees**

- intoxication while on duty, 430

**telegraph, telephone, and other lines and wires**

- other than railway company's
  - crossing of railway by, 377
    - with railway station, 376
  - consent of municipality, 378 (2), (10)
  - diversion of, for construction purposes, 164 (1) (n)
  - government use of 382
    - may construct along railway, 383
  - restoration of, after completion of work, 165
- Railway Act, under
  - arrangements with other companies, 372 (2)
  - "company defined, 380 (1)
  - consent of municipality, 378 (2)
  - construction of, 164 (1) (o), 372 (1)
  - "Special Act" defined, 380
  - telegraphic business under Telegraphs Act, 372 (3)

**Special Act, under**

- access to buildings, obstruction of, 378 (1)
- construction of, 374
- highway, wires and poles on, 378 (1)
- municipality, consent of, 375, 376
- opening of streets, 378 (1)
- poles
  - Board, powers of, 378 (4), (5), (6)
  - cutting, in case of fire, 378 (1) (h)
  - municipal supervision of, 378 (1) (e)
  - one line only, 378 (1) (b)
  - painting of, in cities, 378 (1) (c)
  - removal of, temporary, 378 (1) (f)
  - straight, 378 (1) (c)

**telegraph, telephone, etc.—continued**

- supervision of construction, 378 (1) (e)
- traffic, interference with, 378 (1) (a)
- trees, damage to, 378 (1) (d)
- wires
  - cutting in case of fire, 378 (1) (h)
  - height of, above ground, 378 (1) (b)
  - removal of, temporary, 378 (1) (f)
  - underground, 378 (6), (7)
- workmen's badges, 378 (1) (i)
- Telegraphs Act, R.S.C. 1952, c. 262
  - Part II applicable to railways
- use of telegraph and telephone lines
  - by inspecting engineer, 400
  - government use of, 382

**telegraph and telephone tolls**

- collection of, 374
- definition of, 2 (30) (31)
- approval of Board, 380 (2)
- tariff, 380

**telephone.** See also **telegraph and telephone tolls**

- communication with railway stations, 376

**tenants**

- in tail or for life may convey lands to company, 208-211

**tenements**

- included in "lands," 2 (15)

**thistles**

- along railways to be destroyed, 282, 414

**through traffic**

- apportionment of rates, 342 (3), (4)
- carriage by water, 363
- connecting lines, facilities on, 319 (4)
- facilities for, to be afforded, 319 (2), (4), (5)
- from Canada, into or through foreign country, 343
- from foreign country into or through Canada, 344
- interruptions of continuous carriage, 345
- joint tariffs for. See **tariffs**
- preference prohibited, 319 (3)
- Sunday observance law, provincial, Railway Act not to apply to, 463

**ticket**

- badge to be worn by person demanding, 358
- sale of. See **Passenger Tickets Act**, R.S.C. 1952, c. 202, ss. 2-7

**timber**

- carried on railway, return of, **Government Works Tolls Act**, R.S.C. 1952 c. 138

**time**

- Board's orders for limited, 46
- extension of, 41

**time tables.** See also **Quebec Province.**

- by-laws respecting, 293 (b), 315 (5)
- regular trains to be run according to, 305 (1)

**title of Act**

- short title "the Railway Act," 1

**tolls.** See also **telegraph and telephone tolls**

- apportionment of, agreement for, 156
- baggage, excess, tolls for, 357 (2)
- bridge, tolls for traffic over, 364
- damages for infraction of orders as to, 396
- definition of toll, 2 (32)
- discrimination in, prohibited, 317, 322, 323, 324, 328
- division of, agreement for, 156
- evidence of, tariff is, 348
- express. See **express** (tolls)
- filing of tariff. See **tariffs**
- fractions in fixing tolls, 330
- fraud in connection with, 434, 435
- freight, power to charge for, 164 (1) (i)
- freight traffic tariff. See **tariffs**
- grain, discriminatory, 328
- long and short haul, 317 (3), (5)
- offences, 396, 432
- passenger, power to charge, 164 (1) (i)
- payment of, 315 (4)
- pooling of, prohibited, 318
- power to charge, 164 (1) (i)
- rate structure, 328 (5)
- rebate prohibited, 436 (1) (a)
  - except to owner of branch line, 188 (3)
- recovery of, 360
  - sale of goods for, 361
- special rates for specific shipments, 349

**tolls**—continued.

- tariffs of. See **tariffs**
- tunnels, tolls for traffic through, 364
- unclaimed goods, tolls on, 362
- vessels of company, tolls for traffic on, 363
- water and land carriage, apportionment, 324
- weight of goods for, 330 (2)

**town.** See **city, etc.****tracks**

- joint use of, by two companies, 196
- to be of standard gauge, viz., 4 feet 8½ inches, 164 (2)
- use of another company's, 196

**traffic**

- accommodation for. See **accommodation**
- agreements, 156
- bridge for, 364
- carriage of, 350
  - free or at reduced rates, 350
  - limitation of liability, 353
- definition of, 2 (33)
- facilities for
  - at bridges, 267
  - interchange of, 319, 320
  - grain from west, 321
- freight. See **freight traffic**
- interchange of
  - agreements for, 156 (1)
  - Board may order, 316
- land required for accommodation of, may be taken, 202 (b)
- obstruction of, on highway, 314
- opening of railway for, leave from Board required, 279, 412
- rates, special, for specific shipments, 349
- receipt and delivery of
  - facilities for, 319
  - regulations for, by by-law, 293 (d)
- returns of, 385, 388
- through. See **through traffic**
- tolls. See **tolls**
- water, traffic by, 363

**train dispatcher.** See also **employees**

- intoxication while on duty, 430



**trains**

- arrival and departure of, 293 (b)
- connection with other railway, Board may order,  
315 (5)
- definition of train, 2 (34)
- departure and arrival of, 293 (b)
- employees, number of, on trains, 290 (1) (h)
- entry on, fraudulently, 450 (c)
- equipment of. See **equipment**
- obstruction of highway by, 314
- overdue, notice of, 306, 422
- position of cars in, 307, 423
- regularity in train time, 305
- reversely, moving, 313, 428 (1) (g)
- running of, agreements for, 156 (2)
- safety in running of, 290 (1) (l)
- speed of. See **speed of trains**

**tramway.** See also **street railway**

- included under "railway," 2 (21)

**transfer of shares**

- calls due must be paid before, 83 (1)
- form of, 82
- less than a whole share, transfer is invalid, 83 (2)
- registration of, in register of transfers, 81
- scrip listed on stock exchange transferable by delivery,  
81

**Transport Act, c. 271.** See pages *infra*

**transportation, free.** See **free transportation**

**trees**

- damage to, in erection of wires, 378 (1) (d)
- obstructing view at crossings, must be removed, 261
- removal of, along railway, 164 (1) (j), 261

**trespassing**

- cattle on highway within half mile of railway inter-  
section, 281
- persons on track, 415
- stations, cars, or buildings, 450 (e)

**troops**

- carriage of, 356

**trust**

- company not bound to see to execution of, 88

**trustees**

- of land for church or school purposes, powers of,  
210 (c)
- power to convey interest in land to company, 208-211

**trustees for bondholders**

- enforcing payment of bonds, 142 (2)
- powers of, 137 (2)

**tunnel**

- construction of, 164 (1) (k)
  - under navigable water, 251
  - leave from Board for, 254
- headway in, 253, 408
- not complying with requirements, 409
- "railway" includes, 2 (21)

**undertaking**

- definition of, 2 (35)

**Uniform classification and system of accounts, 387**

- depreciation, 387 (4)
- inspection of accounts, 387 (5)

**uniformity**

- operating rules, 291
- rolling stock, 291

**United States**

- exercise of powers in, if permitted by its laws, 167

**unjust discrimination. See discrimination****Urban Municipality, 311 (3)****vessels**

- tolls and tariffs to apply to, if used by company, 363

**vice-president**

- acts as chairman in absence of president, 119 (3), 126
- by-law for election of officer as, 124 (2), (3)
- election of, 119 (1), 124 (2)

**votes**

- by proxy, 110
  - form of proxy, 110
- majority of votes and proxies to determine matter, 111
- of shareholders in proportion to number of shares  
held, 109

**wages**

rate of, for labourers on subsidized railway, 247  
 payment of employees on subsidized railway, 292,  
 R.S.C. 1952, c. 287, s. 4

**warehouse receipt**

borrowing upon, 147

**watchman**

at level crossing, 313 (1), 428 (2) (b)  
 intoxication while on duty, 430

**water.** See also **navigable waters**

continuous route in Canada, 341 (3)  
 traffic by, 363

**water pipes**

construction of, for drainage, 271, 272  
 diversion of, for construction purposes, 164 (1) (n),  
 165

**water power.** See also **power**

price and supply of, 379

**watercourse**

construction of, for drainage, 271  
 crossing, 164 (1) (k)  
 diversion of, for construction of railway, 164 (1) (l),  
 165

**weeds**

along railway, destruction of, 282, 283, 414

**weight of goods**

for tolls, estimation of, 330 (2)

**wharf**

construction of, over navigable water or canal, 251  
 included in "railway," 2 (21)  
 land for, extent which may be taken, 202 (b)  
 power to construct, 164 (1) (g)

**whistle**

Board may make orders respecting steam, 290 (1) (b)  
 locomotive to have, 304  
 use of, at level crossing, 311, 426, 427

**Winding-up Act**

not applicable to railway companies, R.S.C. 1952, c.  
 296, s. 7

**wing rail**

packing spaces at, 285

**wireless telegraph**

included in "telegraph," 2 (29)

**wires.** See **telegraph, telephone and other lines and wires**

**witness.** See **evidence**

**work for general advantage.** See **general advantage, etc.**

**working agreement**

particulars respecting, 153

**working expenditure**

definition of, 2 (37)

ranking of claim for payment of, 137 (1), 142 (1)

rent for lands taken, included in, 2 (37) (c), 215

**workmen.** See also **employees**

health of. See **Public Works Health Act, R.S.C. 1952, c. 229**

**works**

authorized by Parliament, approved by Board, 40

required by Board, extension of time for completion, 41

**yards**

land for, extent which may be taken, 202 (b)













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